

Maryland

KFM

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1967

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vol.8

FOLIO



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Maryland. Constitutional Convention, 1967 - 1968.

Committee on State Finance and Taxation.

Reports.

SF - 1 -- SF - 5.

Maryland

KFM

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1967

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vol 8

FOLIO

N S T I T U T I O N A L C O N V E N T I O N O F M A R Y L A N D

INTRA-CONVENTION MEMORANDUM

DATE: 21 November 1967

TO: H. Vernon Eney, President

FROM: Mr. Ira J. Wagonheim, Chief Clerk

SUBJECT: Delegate Proposals covered by committee recommendation
returned to Clerk's Office.

The Committee on STATE FINANCE AND TAXATION has returned
the following proposals with the report that they are covered by
Committee Recommendation S.F. 1:

23
30
153
208
253
274

For second reading
See
SFD 3

Ira J. Wagonheim
Ira J. Wagonheim
Chief Clerk

Constitutional Convention

COMMITTEE RECOMMENDATION NO. SF 1

BY THE COMMITTEE ON STATE FINANCE & TAXATION,
Joseph Sherbow, Chairman

October 26 , 1967.

Presented, read, and referred to the Committee of the Whole.

By order, IRA J. WAGONHEIM, Chief Clerk.

This Recommendation covers Delegate Proposals Nos. 23, 30, 153, 208,
253 and 274

TITLE

1 A RECOMMENDATION that the Constitution in-
2 clude a provision on the post audit of State
3 finances.

4
5 The Committee on State Finance and Taxation
6 recommends that the Constitution include the
7 following provision on the post audit of State
8 finances:

9
10 The General Assembly shall provide by
11 law for post audit of State finances by
12 persons under its control.
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Constitutional Convention

COMMITTEE MEMORANDUM NO. SF 1

BY THE COMMITTEE ON STATE FINANCE & TAXATION
CHAIRMAN JOSEPH SHERBOW

October 26 , 1967.

In support of Committee Recommendation No. SF 1

1 Under the present law (Code, Art. 19, Sec.
2 29, the State Auditor is appointed by the
3 Governor and acts under the supervision and
4 direction of the Comptroller. He is expressly
5 required, among other things, to make annual
6 audits of the books and accounts of the
7 Governor's office and of the Comptroller.

8
9 The Draft of the Constitutional Convention
10 omits the provision of the existing Constitu-
11 tion (Art. III, Sec. 24) which confers audit
12 power on the House of Delegates and requires
13 the General Assembly to create a joint stand-
14 ing committee to examine governmental expendi-
15 tures.

16
17 We believe post audit responsibility should
18 rest with the General Assembly, and should in-
19 clude performance as well as financial review.

20
21 We understand that the Legislative Council
22 is recommending the creation of a legislative
23 staff to analyze budgetary problems on a year-
24 round basis, and to be responsible for post
25 audit of the use of appropriations and the per-
26 formance of the functions for which they were
27 appropriated. The design of this Committee
28 recommendation is to lay the groundwork for
29 such a change, leaving the details for imple-
30 mentation by the General Assembly.

31
32 Although Delegate Proposals nos. 23, 30, 153,

1 208, 253 and 274 have suggested differing ap-
2 proaches to the problem of post audits, it is
3 believed that the Committee's recommendation
4 should satisfy their basic purpose.
5

6 We do not make any recommendation as to the
7 normal executive functions of audit.
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Constitutional Convention

COMMITTEE REPORT NO. SF-1

BY THE COMMITTEE ON STATE FINANCE & TAXATION
Joseph Sherbow, Chairman

October 31, 1967.

Presented, read, and referred to the Committee on Calendar and Agenda
of the Convention

By order, IRA J. WAGONHEIM, Chief Clerk.

TITLE

1 A REPORT on the proposed omission from the
2 Constitution of Art III, Sec. 35A of the
3 present Constitution providing as follows:
4

5 "Sec. 35A. Nothing in this Constitution
6 shall exempt the salary or compensation
7 of any judge or other public officer from
8 the imposition by the General Assembly of
9 a non-discriminatory tax upon income."
10

11 It is recommended that this provision be
12 omitted from the Constitution but that an ex-
13 planatory comment be included to the effect
14 that the provision is deemed superfluous and
15 that the rule should be the same in the absence
16 of this provision.
17

18 At one time, the view prevailed that income
19 taxes constituted a diminution of salary or
20 compensation within the meaning of constitu-
21 tional provisions prohibiting any decrease in
22 the compensation of a public officer during
23 his term in office. This view was applied by
24 the U. S. Supreme Court in Evans v Gore, 253
25 U.S. 245 (1920), and by the Maryland Court of
26 Appeals in Gordy v Dennis, 176 Md. 106 (1939).
27

28 With the broader application of net income
29 taxes, there has been a trend away from the
30 above rule and towards the view that a non-

1 discriminatory tax upon income is not an un-
2 constitutional diminution of protected com-
3 pensation. This change of viewpoint is re-
4 flected in the U.S. Supreme Court's decision
5 in O'Malley v Woodrough, 307 U.S. 277 (1939),
6 overruling Evans v Gore, *supra*, and in Art.
7 III, Sec. 35A of the Maryland Constitution,
8 initiated by the General Assembly in 1939 and
9 ratified Nov. 5, 1940, for the express pur-
10 pose of overruling Gordy v Dennis.
11

12 Technically, the omission of Art. III, Sec.
13 35A from the new Constitution could be argued
14 to be a reversion to the old rule, but we do
15 not believe that the courts would so hold. In
16 the first place, the majority opinion of the
17 Court of Appeals in Gordy v Dennis relied upon
18 Evans v Gore, and the Court would necessarily
19 be influenced by the fact that it was later
20 overruled. In the second place, the fact that
21 the Court's decision in Gordy v Dennis was
22 promptly overruled by a Constitutional amend-
23 ment aimed specifically at that decision,
24 should be accepted by the Court of Appeals as
25 an expression of the will of the people in
26 this situation.
27

28 Accordingly, we are of the opinion that the
29 omission of Art. III, Sec. 35A would not have
30 the effect of changing the existing rule of
31 law, especially if the intention of the Con-
32 vention is made clear in a commentary accom-
33 panying the new Constitution.
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Constitutional Convention

AMENDMENT NO. 1

~~To Amendment No.~~ _____

To Committee Recommendation No. SF-1

BY ~~DELEGATE~~ THE COMMITTEE ON STATE FINANCE AND
TAXATION

1 In lines 10, 11 and 12 on page 1 of Commit-
2 tee Recommendation No. SF-1, ~~strike~~ out the
3 words "The General Assembly shall provide by
4 law for post audit of State finances by per-
5 sons under its control", and insert in lieu
6 thereof the words "The General Assembly shall
7 provide by law for post-audit of State finan-
8 ces by an agency of the General Assembly di-
9 rected by a person appointed by it and under
10 its control."

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Oct 26 1964

Maryland Room
University of Maryland Library,
College Park, Md.

COMMITTEE ON CALENDAR AND AGENDA

Debate Schedule No. 8

For Debate of Committee Recommendations Nos. SF-2,3, 4, and 5

There will be no general debate. Each Committee Recommendation will be presented separately. After the presentation of each Committee Recommendation (and of the Minority Report, if any), it will be open to debate and amendment, section-by-section. No speech shall exceed three (3) minutes, except as otherwise provided.

I. SF-2 - Lotteries

Committee Recommendation - No time limit

Minority Report SF-2(A) - No time limit

Controlled: Delegate Dukes - 30 minutes

Delegate Sherbow - 30 minutes

Uncontrolled - 30 minutes (speech limit 3 minutes)

II. SF-3 - Taxes and Assessments

Committee Recommendation - No time limit

III. SF-4 - State Indebtedness

Committee Recommendation - No time limit

Minority Report SF-4(A) - No time limit

Controlled: Delegate Stern - 30 minutes

Delegate Sherbow - 30 minutes

Uncontrolled: 30 minutes (speech limit 3 minutes)

IV. SF-5 - Budget and Appropriations

Committee Recommendation - No time limit

Presentation by sponsor of amendments limited to 10 minutes including time yielded in answering questions.

Note: Speeches alternate between sides.

CONSTITUTIONAL CONVENTION OF MARYLAND

INTRA-CONVENTION MEMORANDUM

DATE: 21 November 1967
TO: H. Vernon Eney, President
FROM: Mr. Ira J. Wagonheim, Chief Clerk
SUBJECT: Delegate Proposals covered by committee recommendation
returned to Clerk's Office.

The Committee on STATE FINANCE AND TAXATION has returned
the following proposals with the report that they are covered by
Committee Recommendation S.F. 2:

24
39
108

for second reading

see

S&D-10

Ira J. Wagonheim
Ira J. Wagonheim
Chief Clerk

Constitutional Convention

COMMITTEE RECOMMENDATION NO. SF 2

BY THE COMMITTEE ON STATE FINANCE AND TAXATION
Joseph Sherbow, Chairman

November 8, 1967.

Presented, read, and referred to the Committee of the Whole.

By order, IRA J. WAGONHEIM, Chief Clerk.

This Recommendation covers Delegate Proposals Nos. 24, 39 and 108

TITLE

1 A RECOMMENDATION that the Constitution
2 include a prohibition of governmental licens-
3 ing or sponsorship of lotteries.

4
5 The Committee on State Finance and Taxa-
6 tion recommends that the Constitution include
7 the following provision on lotteries:

8 ~~Lotteries~~ ^{authorized} shall not be ~~sanctioned~~ by
9 the State or its political subdivisions.
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✓ 101 A
✓ 39 N

✓ reconsider
-69-A
-58-N

Constitutional Convention

COMMITTEE MEMORANDUM NO. SF 2

BY THE COMMITTEE ON STATE FINANCE AND TAXATION
Joseph Sherbow, Chairman

November 8, 1967.

In support of Committee Recommendation No. SF 2

Maryland Room
University of Maryland Library
College Park, Md.

1 Three Delegate Proposals on the subject of
2 lotteries have been referred to the Committee:

3
4 No. 24, questioning whether the existing pro-
5 hibition of lottery grants should be omitted,
6 as proposed in the Commission Draft of Consti-
7 tution;

8
9 No. 39, authorizing the operation of a State
10 lottery; and

11
12 No. 108, prohibiting both the licensing and
13 the sponsorship of a lottery by the State or
14 any political subdivision.

15
16 The Committee voted 10 to 4, with one ab-
17 stention, that lotteries should not be given
18 governmental sanction, and that the subject is
19 Constitutional.

20 21 HISTORY AND BACKGROUND OF LOTTERIES

22
23 Lotteries flourished in Maryland during
24 the late 1700's and early 1800's. After 1792
25 they were licensed by the State, and the Balti-
26 more Criminal Justice Commission in its Jan. 13,
27 1964 report on "Legalized Gambling," lists 140
28 of them between 1795 and 1817.

29
30 Most of the early lotteries were local in
31 nature, and were for churches, schools, or
32 specific public works, such as the Washington

1 Monument in Baltimore. An article by F. C.
2 Latrobe in the Baltimore Sun of Nov. 18, 1934,
3 divides the lottery era into the church period
4 and the university period.

5
6 The dedication of early lotteries to worthy
7 purposes has been used by present day advocates
8 of lotteries to justify their proposals. Noth-
9 ing could be a greater distortion. There is no
10 similarity in spirit, substance or character
11 between the early lotteries and the type of
12 governmental device being urged upon us today.

13
14 The early lotteries were for community
15 purposes. They were organized to accomplish
16 local projects, and were conducted in the full
17 view of the neighborhood. The design was not
18 so much to create a gambling device as to in-
19 duce a greater spirit of generosity by appeal-
20 ing to the gambling instinct. Also, it broad-
21 ened the number of donors. The Lutherans, for
22 example, could solicit Catholics and Episco-
23 palians for their church, whereas they could
24 not hope to get direct contributions except
25 from their own congregation.

26
27 There is no philanthropy in a lottery run
28 for government revenue. It is a plain, un-
29 adulterated appeal to the gambling instinct in
30 order to push one's tax burden onto someone
31 else.

32
33 As lotteries grew in size, they ceased to
34 be community projects. Competition between
35 lotteries made tickets harder to sell, and
36 their organization was taken over by profes-
37 sionals. The profits shrank and it took
38 longer to raise the same amount of money.

39
40 The Washington Monument lottery was
41 authorized in January 1810. It was still op-
42 erating in 1820, with endlessly repeated
43 ticket sales and drawings. The Monument was
44 not completed until Nov. 25, 1829, and then
45 only through a grant of \$178,000 from the
46 General Assembly.

47
48 Along with the increase in size, and
49 separation from philanthropic motive, came the
50 organized gamblers. They rigged the drawings

1 to benefit insiders, they developed devices to
2 permit gambling on the lottery results without
3 sharing in the expenses, they bribed public
4 officials. Maryland, in common with other
5 States, was proving the point later to be made
6 by Governor Thomas E. Dewey of New York that:

7
8 "Throughout its entire history in the
9 United States and abroad, legalized
10 gambling has brought nothing but
11 poverty, crime and corruption."
12

13 As early as 1792 the Legislature found it
14 necessary to regulate lotteries, but it became
15 increasingly evident that regulation was not
16 enough. By 1834 lotteries had become such an
17 acknowledged evil that efforts were made to
18 suppress them. It took more than twenty years
19 of struggle to do so. Even the adoption of a
20 constitutional prohibition against lottery
21 grants proved ineffective since it did not ap-
22 ply to lotteries already authorized. It was
23 not until 1860 that the General Assembly suc-
24 ceeded in bringing about their suppression.
25

26 Experience has shown, over and over, that
27 lotteries inevitably lead to corruption and
28 demoralization. (See Fortune's Merry Wheel,
29 by John Samuel Ezell, Harvard University Press,
30 1960).
31

32 Lotteries have a debilitating effect on the
33 economy and the tax structure of the State. The
34 something-for-nothing psychology inherent in lot-
35 teries impairs the will of the people to face up
36 to public needs and to pay for them.
37

38 Lotteries are unreliable as a source of
39 revenue. In an article on this in the Sep-
40 tember 1966 issue of Taxes, The Tax Magazine,
41 Dr. Sam Rosen, Professor of Economics at the
42 University of New Hampshire concludes:
43

44 "No lottery can be expected to have a
45 significant impact on either federal or
46 state public finances over any sustained
47 period of time. Gross revenue, let alone
48 net revenue, raised by this means will
49 always be negligible as a percentage of
50 total receipts from other sources. And

1 whatever amount is collected will be at
2 relatively great administrative cost."
3

4 This has been demonstrated recently by
5 the State lotteries of New Hampshire and New
6 York. Both have produced far less than their
7 sponsors predicted, and receipts appear to be
8 falling off rather than increasing. This is
9 shown very clearly by the New Hampshire fig-
10 ures ; the New York lottery is too recent to
11 have shown a trend.
12

13 Experience also shows that legalized lot-
14 teries breed other forms of gambling. The
15 argument that the legalization and control of
16 lotteries would assist in the suppression of
17 gambling rackets is not borne out by history.
18 (See the Jan. 13, 1964 report of the Baltimore
19 Criminal Justice Commission on "Legalized
20 Gambling.")
21

22 Lotteries bear most heavily on the poor.
23 They weaken the belief that reward should come
24 from effort. As a form of revenue, they are
25 more regressive than any other known tax, and
26 they take their toll from those least able to
27 pay.
28

29 LOTTERIES ARE OF CONSTITUTIONAL IMPORT 30

31 Lottery grants have been prohibited by
32 all four Maryland Constitutions, those of
33 1776 (by 1839 amendment), 1851, 1864, and 1867.
34 The Constitutions of thirty-five other States
35 also contain provisions against them. In the
36 face of this, it would be difficult to say
37 that they are not of sufficient significance
38 to be dealt with in a Constitution.
39

40 Organized gambling interests can be ex-
41 pected to lobby continuously for lotteries in
42 the event that the door is left open. Slot
43 machines have demonstrated all too well the
44 power of such a lobby and the turmoil it can
45 create. The members of the Legislative
46 Liaison Committee who have discussed this
47 subject with us have been emphatic in their
48 hope that lotteries will be prohibited by the
49 Constitution so as to relieve the General
50 Assembly from this turmoil and pressure.

1 Changes proposed in the Constitution
2 create a new need to cover lotteries. During
3 the period in which lotteries were permitted,
4 only the General Assembly had authority to
5 license them. Under pending proposals, the
6 Counties (including Baltimore City) might
7 have this power, subject only to withdrawal
8 or modification by public general law. Pres-
9 sures for lotteries would develop locally as
10 well as at the State level, unless they are
11 barred by Constitutional provision.

12
13 The Committee recommends that govern-
14 mental sanction of lotteries should be pro-
15 hibited in the Constitution.

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Maryland Room
University of Maryland Library
College Park, Md.

Com Rec SF-2

CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
President			Clagett			Key			Robey, F. C.		
Tawes			Clarke, E. J.			Kiefer			Robie, K. L.		
Clark, J.			Cleveland			Kirkland			Rollins		
James			Dabrowski			Koger			Rosenstock		
Abramson			Darby			Kosakowski			Rush		
Adkins			Della			Koss			Rybczynski		
Anderson			Dorsey			Leitzel			Scanlan		
Armor			Dukes			Linton			Schloeder		
Bamberger			Dulany			Lord			Schneider		
Bard			Eckenrode			Macdonald			Sherbow		
Barrick			Finch			Malkus			Sickles		
Baumann			Fornos			Marion			Siewierski		
Beachley			Fox			Mason			Singer		
Beall			Frederick			Maurer			Smith, J. H.		
Bennett			Freedlander			Mentzer			Smith, M. H.		
Blair			Gallagher			Miller, B.			Sollins		
Boileau			Gilchrist			Miller, E. J.			Sosnowski		
Borom			Gill			Mitchell			Soul		
Bothe			Gleason			Morgan			Stern		
Boyce			Grant			Moser			Storm		
Boyer			Groh			Mosner			Sybert		
Boyles			Grumbacher			Mudd			Taylor, H. E.		
Bradshaw			Gullett			Murphy			Taylor, L.		
Bryson			Hanson			Murray, D. S.			Ulrich		
Burdette			Hardwicke			Murray, E. C.			Vecera		
Burgess			Hargrove			Needle			Wagandt		
Bushong			Harkness			Neilson			Webb		
Buzzell			Harris			Neumann			Ritter		
Byrnes			Henderson			Smith, A. W.			Weidemeyer		
Caldwell			Hickman			Pascal			Wheatley		
Cardin			Hopkins			Penniman			White		
Carson			Hostetter			Peters			Willis		
Case			Hutchinson			Powers			Willoner		
Chabot			Jett			Price			Winslow		
Child			Johnson			Pullen					
Cicone			Kahl			Raley					

75

YEAS	N-V	NAYS
100-200	100-200	100-200
0 0	0 0	0 0
1 1	1 1	1 1
2 2	2 2	2 2
3 3	3 3	3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

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DEL. PRO.	COM. REC.	DATE:
1000	10 1	JAN. 2
2000	20 2	3
3000	30 3	1
4000	40 4	2
	50 5	3
RESO.	60 6	4
2-R.	70 7	5
3-R.	80 8	6
QUO.	90 9	SEPT. 7
MOD.	00 0	OCT. 8
		NOV. 9
		DEC. 0

CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Com Rec SF 2

as amended

YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
• President			• Clagett			• Key	•		• Robey, F. C.		
• Tawes			• Clarke, E. J.			• Kiefer			• Robie, K. L.		
• Clark, J.			• Cleveland			• Kirkland			• Rollins		
• James			• Dabrowski		•	• Koger			• Rosenstock		•
• Abramson			• Darby			• Kosakowski		•	• Rush		
• Adkins			• Della	•		• Koss			• Rybczynski		
• Anderson	•		• Dorsey		•	• Leitzel			• Scanlan		
• Armor	•		• Dukes	•		• Linton			• Schloeder		
• Bamberger			• Dulany			• Lord			• Schneider		
• Bard			• Eckenrode			• Macdonald			• Sherbow		
• Barrick	•		• Finch			• Malkus	•		• Sickles		
• Baumann	•		• Fornos		•	• Marion			• Siewierski		•
• Beachley			• Fox		•	• Mason	•		• Singer		
• Beall			• Frederick			• Maurer			• Smith, J. H.		
• Bennett			• Freedlander		•	• Mentzer			• Smith, M. H.		
• Blair			• Gallagher			• Miller, B.			• Sollins		
• Boileau			• Gilchrist			• Miller, E. T.			• Sosnowski	•	
• Borom	•		• Gill		•	• Mitchell		•	• Soul		
• Bothe			• Gleason			• Morgan			• Stern		
• Boyce			• Grant			• Moser			• Storm		
• Boyer			• Groh			• Mosner			• Sybert		•
• Boyles			• Grumbacher			• Mudd			• Taylor, H. E.		
• Bradshaw			• Gullett			• Murphy			• Taylor, L.		•
• Bryson			• Hanson			• Murray, D. S.		•	• Ulrich		
• Burdette			• Hardwicke		•	• Murray, E. C.		•	• Vecera		
• Burgess			• Hargrove			• Needle		•	• Wagandt		
• Bushong	•		• Harkness			• Neilson			• Webb	•	
• Buzzell			• Harris			• Neumann			• Ritter		
• Byrnes			• Henderson		•	• Smith, A. W.			• Weidemeyer		•
• Caldwell			• Hickman		•	• Pascal			• Wheatley		
• Cardin			• Hopkins			• Penniman			• White		
• Carson			• Hostetter			• Peters			• Willis		
• Case			• Hutchinson			• Powers			• Willoner		•
• Chabot			• Jett		•	• Price			• Winslow		
• Child	•		• Johnson		•	• Pullen		•			
• Cicone	•		• Kahl		•	• Raley					

YEAS	N-V	NAYS
100-200	100-200	100-200
0 0	0 0	0 0
1 1	1 1	1 1
2 2	2 2	2 2
3 3	3 3	3 3
4 4	4 4	4 4
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6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

DEL. PRO.	COM. REC.
1000 100	10 1
2000 200	20 2
3000 300	30 3
4000 400	40 4
	50 5
RESO. 600	60 6
2-R. 700	70 7
3-R. 800	80 8
QUO. 900	90 9
MOT. 000	00 0

DATE: 1
JAN. 2
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SEPT. 7
OCT. 8
NOV. 9
DEC. 0

CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend 1 to
Com Rec. SF-2

AS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
President			● Clagett			Key	●		● Robey, F. C.		
Tawes		●	● Clarke, E. J.			Kiefer		●	● Robie, K. L.		
Clark, J.			● Cleveland			● Kirkland			● Rollins		
James			● Dabrowski			● Koer			● Rosenstock	●	
Abramson			● Darby	●	●	● Kosakowski		●	● Rush		
Adkins			● Della	●		● Koss		●	● Rybczynski		
Anderson	●		● Dorsey			● Leitzel		●	● Scanlan		
Armor	●		● Dukes	●		● Linton			● Schloeder		
Bamberger			● Dulany		●	● Lord			● Schneider	●	
Bard			● Eckenrode			● Macdonald		●	● Sherbow	●	
Barrick	●		● Finch			● Malkus			● Sickles	●	
Baumann			● Fornos		●	● Marion			● Siewierski	●	
Beachley			● Fox		●	● Mason	●		● Singer		
Beall			● Frederick			● Maurer		●	● Smith, J. H.		
Bennett	●		● Freedlander		●	● Mentzer		●	● Smith, M. H.		
Blair			● Gallagher		●	● Miller, B.		●	● Sollins	●	
Boileau			● Gilchrist		●	● Miller, E. J.			● Sosnowski		
Borom	●		● Gill		●	● Mitchell		●	● Soul		
Bothe			● Gleason		●	● Morgan			● Stern	●	
Boyce			● Grant			● Moser			● Storm		
Boyer			● Groh		●	● Mosner			● Sybert	●	
Boyles			● Grumbacher		●	● Mudd			● Taylor, H. E.		
Bradshaw	●		● Gullett		●	● Murphy			● Taylor, L.	●	
Bryson	●		● Hanson		●	● Murray, D. S.			● Ulrich	●	
Burdette	●		● Hardwicke		●	● Murray, E. C.		●	● Vecera		
Burgess			● Hargrove			● Needle			● Wagandt	●	
Bushong	●		● Harkness			● Neilson		●	● Webb	●	
Buzzell			● Harris			● Neumann			● Ritter		
Byrnes	●		● Henderson		●	● Smith, A. W.		●	● Weidemeyer	●	
Caldwell			● Hickman		●	● Pascal			● Wheatley	●	
Cardin			● Hopkins		●	● Penniman			● White	●	
Carson			● Hostetter		●	● Peters			● Willis	●	
Case	●		● Hutchinson			● Powers		●	● Willoner	●	
Chabot		●	● Jett			● Price		●	● Winslow	●	
Child		●	● Johnson			● Pullen		●			
Cicone	●		● Kahl			● Raley					

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2 2	2 2	2 2
3 3	3 3	3 3
4 4	4 4	4 4
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6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

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2000 200	20 2
3000 300	30 3
4000 400	40 4
	50 5
RESO. 600	60 6
2-R. 700	70 7
3-R. 800	80 8
QUO. 900	90 9
MOT. 000	00 0

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Constitutional Convention

MINORITY REPORT NO. SF- 2 (A)

BY DELEGATES DUKES, KOGER, MOSNER, WEBB

OF THE COMMITTEE ON STATE FINANCE AND TAXATION

November 10 , 1967.

Presented and received.

By order, IRA J. WAGONHEIM, Chief Clerk.

This Minority Report relates to Committee Recommendation No. SF 2

TITLE

1 A MINORITY REPORT concerning Committee -
2 Recommendation No. SF 2, being the Committee's
3 recommendation to continue the present consti-
4 tutional prohibition of governmental licensing
5 or sponsorship of lotteries.

6
7
8 The Committee on Finance and Taxation
9 voted 10 to 4, with one abstention, to
10 approve the substance of Delegate Proposal
11 No. 108. This proposal provides for a
12 constitutional prohibition against both the
13 licensing and sponsorship of a lottery by
14 the State or any political subdivision.

15
16 Essentially, the opposition to a consti-
17 tutional prohibition against lotteries re-
18 solves itself into a rather clear-cut issue.
19 Consideration of the respective merits and
20 disadvantages of a lottery as a system of
21 revenue to procure money is not a proper
22 subject for constitutional deliberation.
23 Neither, we feel, is the matter of lotteries,
24 in general, a proper subject for constitu-
25 tional prohibition.

26
27

1 HISTORY AND BACKGROUND OF LOTTERIES

2
3 The committee majority report traces at
4 some length the various misfortune, intrigue,
5 and absolute evil which has plagued the
6 operation of lotteries in these United
7 States. It does not bother to detail the
8 success of thousands of private lottery
9 operations or the funds actually raised by
10 some political entities. It is readily
11 apparent that the majority report of the
12 Committee on Finance and Taxation places
13 the supporting members firmly against sin.
14 In eloquent and unbiased recitation of fact,
15 the majority sets forth its appraisal of
16 the opposition:

17
18 "The dedication of early lotteries to
19 worthy purposes has been used by pres-
20 ent day advocates of lotteries to
21 justify their proposals. Nothing could
22 be a greater distortion. There is no
23 similarity in spirit, substance or
24 character between early lotteries and
25 the type of governmental device being
26 urged upon us today...The early lot-
27 teries were for community purposes.
28 They were organized to accomplish
29 local projects...and were conducted...
30 not so much to create a gambling de-
31 vice as to induce a greater spirit of
32 generosity...there is no philanthropy
33 in a lottery run for governmental
34 revenue. It is a plain, unadulterated
35 appeal to the gambling instinct in
36 order to push one's tax burden onto
37 someone else." (Emphasis added)

38
39 Obviously in the face of this impartial
40 and unprejudiced analysis, it is difficult
41 for the minority to step forth in favor of
42 sin. Nevertheless, although not "philan-
43 thropists," neither are we "philanderers"
44 as the majority would impune us by negative
45 implication. We simply feel that constitu-
46 tions are for important matters, and that a
47 lottery ticket is not of such import that
48 the people of this great State need to be
49 protected constitutionally from its evils
50 by we moralists.

1 The majority urges that lotteries should
2 not be sanctioned by law. In this particular
3 area, the minority could probably agree. In
4 fact, we could agree that gambling in general,
5 horse race betting, prostitution, alcohol,
6 public contract fixing, public official bribing,
7 and a myriad of greater and lessor sins also
8 should not be sanctioned by law. In fact,
9 that is why we have a legislature. The struc-
10 ture of the legislature being framed by the
11 proposed constitution will be suitable to
12 serve as a representative body of the people
13 of this State to decide what should and should
14 not be sanctioned by law.

15
16 Unfortunately, this is not really the prob-
17 lem. Each of the major committees at this
18 great convention is attempting to frame
19 language which would provide sweeping guide
20 lines under which the various organs of
21 government can function strongly and well
22 for years to come. The Committee on the
23 Executive, the Committee on the Legislature,
24 the Committee on the Judiciary each are re-
25 minded daily of the touchstone of their
26 efforts: Do not be so restrictive as to
27 allow now minor or yet unseen obstacles to
28 become great and impassible hurdles in the
29 future. The majority argued that "lotteries
30 have a debilitating effect on the economy
31 and on the tax structure of the State."
32 The basic thrust of their argument is that
33 a lottery might have the effect of hampering
34 or weakening the total state revenue system.
35 Conceding, arguendo, that this is a possibil-
36 ity, one must not ignore the other side of
37 the coin. We urge upon the convention that
38 if the convention proposes language for the
39 legislative department that would create a
40 strong, flexible legislature, to the extent
41 that isolated, emotional prohibitions are
42 placed upon the ability of that legislature
43 to deal with problems as they arise, to that
44 extent the great mobility of the legislature
45 as a whole, is diminished.

46
47 Many authorities argue that of all the
48 various areas to be treated in a state con-
49 stitution, the areas dealing with methods
50 and means of finance should be the most

1 unrestricted. The mind of the prophet is
2 totally inept when charged with foreseeing
3 the many and various schemes, proposals, and
4 elaborate systems of finance that are yet un-
5 born. For every potential subject of taxa-
6 tion now known to legislative bodies, there
7 may well be three or four such potential sub-
8 jects of taxation that do not yet even exist
9 in our expanding and changing world. We
10 argue with one breath that it is imperative
11 to have a strong legislature. Yet we are
12 willing in another breath to urge that this
13 model legislature will be so weak and so
14 mamby-pamby as to be unable to withstand
15 pressures with respect to a lottery.

16
17 The minority believes that the legislature
18 which will be structured by this great conven-
19 tion and its proposed constitution will be a
20 vibrant, aggressive, well-balanced and sage
21 body. We are much more concerned that such a
22 body have the flexibility and power to achieve
23 its enormous potential for molding the course
24 of Maryland history than we are in fear that
25 it will succumb to "pressures" and thrust the
26 State into a lottery situation which might be
27 ill-advised and of little value.

28
29 There are many, many areas in which a
30 majority of the convention could probably
31 reach a consensus for or against a given
32 proposition. The lottery is only one of
33 them. To pluck this isolated and emotional
34 issue from the many other legislative matters
35 that are of concern to the delegates of the
36 convention, and to raise it into a prohibition
37 against legislative action, is to set a
38 precedent of restricting legislative matters
39 which could be more damaging to the ultimate
40 proposed constitution than any conceivable
41 damage that might flow from a lottery, when
42 and if the legislature ever saw fit to pass
43 such legislation.

44
45
46
47 LOTTERIES ARE NOT OF CONSTITUTIONAL IMPORT

48
49 The arguments set forth by the majority urging
50 that lotteries are a matter of constitutional

1 import are simply untrue, and have no basis in
2 fact. The fact that prohibitions against lot-
3 teries exist in many state constitutions (state
4 constitutions having long been a subject of
5 critical analysis for their wordiness, archaic-
6 ness, and general clumsiness) is certainly no
7 argument justifying its inclusion in a proposed
8 model constitution. The arguments that organ-
9 ized gamblers will rush in if a state lottery
10 is created or that such interest will invade
11 our fair land if scattered churches are granted
12 a private lottery is nonsense. State lotteries
13 exist in our nation today, and there is prob-
14 ably not a state, county, municipality or
15 hamlet that does not have many private lot-
16 teries, half and half drawings and so forth
17 every month. The question is not whether we
18 will have lotteries in the State of Maryland
19 but whether they will be castigated in the
20 supreme pronouncement of the constitution and
21 overlooked in everyday life, as they are now,
22 or whether the matter will be left open for
23 the legislature to deal with in a constructive
24 and organized manner.

25
26 It would be ludicrous, were it not sad, that
27 one of the nation's great horse racing states
28 should quake in fear that its people are too
29 simple and too easily misguided to withstand
30 the evils of gambling in another area, again,
31 when and if, the legislature should ever decide
32 to permit lotteries. If one can picture the
33 problem in the form of a news cartoon, we see
34 the honorable delegates to this convention
35 standing in the center of a great forest fire,
36 leaning over and smothering a small burning
37 bush with a blanket labeled "Constitution,"
38 and then leaning back against a smoldering
39 oak tree (A Mighty Oak?) and, with a sigh of
40 relief, breathing: "Now we are safe."

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Maryland Room
University of Maryland Library
College Park, Md.

Constitutional Convention

AMENDMENT. NO. 1

~~XXXXXXXXXXXX~~ _____

To Committee Recommendation No. SF-2

BY DELEGATE S JAMES, RALEY, SICKLES, WILLIS

1 On page 1 strike out all of lines 9 and
 2 10 and insert in lieu thereof the following:
 3
 4 "Neither the General Assembly nor the govern-
 5 ing body of any political subdivision of the
 6 State shall operate or authorize a lottery
 7 for the purpose of financing any expenses of
 8 government."
 9

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ADOPTED

C O N S T I T U T I O N A L C O N V E N T I O N O F M A R Y L A N D

INTRA-CONVENTION MEMORANDUM

DATE: 21 November 1967

TO: H. Vernon Eney, President

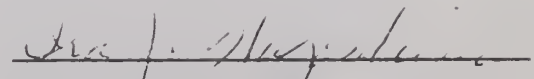
FROM: Mr. Ira J. Wagonheim, Chief Clerk

SUBJECT: Delegate Proposals covered by committee recommendation
 returned to Clerk's office.

The Committee on STATE FINANCE AND TAXATION has returned
the following proposals with the report that they are covered by
Committee Recommendation S.F. 3:

8
356
394

For second reading
See
S+D - 10


Ira J. Wagonheim
Chief Clerk

Constitutional Convention

COMMITTEE RECOMMENDATION NO. SF-3

BY THE COMMITTEE ON STATE FINANCE AND TAXATION
Joseph Sherbow, Chairman

November 9 , 1967.

Presented, read, and referred to the Committee of the Whole.

By order, IRA J. WAGONHEIM, Chief Clerk.

This Recommendation covers Delegate Proposals Nos. 8, 356, 394

TITLE

1 A RECOMMENDATION that the Constitution
2 include the following provisions with respect
3 to taxes, assessments, and exemptions.

4
5 The Committee on State Finance and Taxation
6 recommends that the Constitution include the
7 following provisions with respect to taxes,
8 assessments, and exemptions:

9
10

11 Section 8.01 Power to Tax.

12
13

14 (a) Taxes shall be imposed only for public
15 purposes and by the elected representatives of
16 the people exercising legislative powers.

17

18 (b) The political subdivisions shall re-
19 tain, unless withdrawn by the General Assembly,
20 such taxing powers as they have at the time of
21 the adoption of this Constitution. The Gen-
22 eral Assembly may confer or withdraw taxing
23 powers by laws applicable to one or more po-
24 litical subdivisions.

1 Section 8.02 Assessments.

2

3 Assessments with respect to any tax shall be
4 made pursuant to uniform rules and pursuant to
5 such classifications of property, taxpayers,
6 and events as may be determined by law, which
7 classes shall include property devoted to ag-
8 ricultural use as prescribed by law.

9

10

11 Section 8.02-1 Equalization.

12

13 The State shall prescribe and administer uni-
14 form rules and methods for determining property
15 tax assessments. State funds distributed to
16 political subdivisions on the basis of assess-
17 ments of property shall be determined by equal-
18 ized assessments between such subdivisions, as
19 may be provided by law.

20

21

22 Section 8.02-2 Exemptions.

23

24 Exemptions with respect to any tax imposed by
25 the State shall be made pursuant to uniform
26 rules within classes of property, taxpayers,
27 or events.

28

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Constitutional Convention

COMMITTEE MEMORANDUM NO. SF-3

BY THE COMMITTEE ON STATE FINANCE AND TAXATION
Joseph Sherbow, Chairman

November 9 , 1967.

Maryland Room
University of Maryland Library
College Park, Md.

In support of Committee Recommendation No. SF-3

1 Section 8.01 Power to Tax. (In two paragraphs)

2

3 (a) Taxes shall be imposed only for
4 public purposes and by the elected
5 representatives of the people exercis-
6 ing legislative powers.

7

8 Comment:

9

10 This provision stems back to Magna
11 Charta and has come down to us through the
12 British Bill of Rights of 1689, the Declaration
13 of the American Stamp Act Congress of 1765, and
14 the Declarations of Rights in the Maryland
15 Constitutions of 1776, 1851, 1864, and 1867.
16 In essence, it expresses the principle of "no
17 taxation without representation." In addition
18 to its historical significance, it has present
19 day utility in barring the imposition of taxes
20 by administrative boards.

21

22 Section 8.01 Power to Tax. (Second paragraph)

23

24 (b) The political subdivisions shall
25 retain, unless withdrawn by the Gener-
26 al Assembly, such taxing powers as they
27 have at the time of the adoption of
28 this Constitution. The General Assem-
29 bly may confer or withdraw taxing
30 powers by laws applicable to one or
31 more political subdivisions.

32

1 Comment:

2
3 This continues the traditional theory
4 that all tax power resides in the General As-
5 sembly, and that the localities have only such
6 tax powers as it delegates to them. This is
7 the basis on which Maryland has operated from
8 its inception. Our Committee understands that
9 this policy has been approved by the Committee
10 on Local Government.

11
12 The Committee on State Finance and
13 Taxation is of the opinion that local taxing
14 powers should be conferred by delegation from
15 the General Assembly, rather than by a blanket
16 grant in the Constitution subject to possible
17 withdrawal. We submit the following points in
18 support of this conclusion:

19
20 1. A blanket grant of taxing power to
21 the Counties could impair the credit rating of
22 the State's general obligation bonds.

23
24 2. Municipal taxes are also a part of
25 the overall tax structure and must be consid-
26 ered in context with State and County taxes.
27 Section 8.01(b) is designed to accomplish this.

28
29 3. The State's tax structure must be con-
30 sidered and dealt with in its entirety, as is
31 done in Section 8.01(b), not in separate com-
32 partments.

33
34 4. Blanket grants of local tax powers
35 have proved unworkable in practice, and have
36 been destructive of stability, simplicity, and
37 uniformity.

38
39 5. The maintenance of a satisfactory busi-
40 ness climate is essential to the well being of
41 the State. To this end, it is important that
42 local taxes be stable, simple, and uniform.

43
44 6. Section 8.01(b) will solve the other-
45 wise critical problem of transition legislation.
46 A more complete statement of these points is
47 included in an appendix to this Memorandum.

48
49 As here used, the term "political subdivis-
50 ion" includes counties, municipalities, and

1 other districts and areas established by law
2 for the purpose of performing a governmental
3 function. Put differently, the theory of the
4 Committee's Recommendation requires an express
5 grant of taxing power to all units of govern-
6 ment before such power may be exercised. If
7 this principle is covered by other sections of
8 the Constitution, the terminology used in the
9 Committee's Recommendation should be conformed
10 to such sections.

11
12 Section 8.02 Assessments.

13
14 Assessments with respect to any tax shall
15 be made pursuant to uniform rules and to such
16 classifications of property, taxpayers, and
17 events as may be determined by law, which
18 classes shall include property devoted to agri-
19 cultural use as prescribed by law.

20
21 Comment:

22
23 This section represents a redistillation
24 of Article 15 of the Declaration of Rights in
25 the present Constitution. It should be read
26 in conjunction with Sections 8.02-1 and 8.02-2.

27
28 As originally proposed in the Draft Con-
29 stitution, this Section expressly authorized a
30 special classification for "property devoted to
31 . . . open-space uses." It is the opinion of
32 the Committee that the General Assembly already
33 has the power to create a separate classifi-
34 cation for this purpose if it wishes to do so,
35 and that the inclusion of the quoted language
36 adds no additional power. The term "open-space"
37 lacks precision. We see great benefit to the
38 public in preserving open spaces, but any plan
39 to facilitate this by special assessment classi-
40 fication will require careful legislative eval-
41 uation and definition so as to attain the desired
42 end without opening the door to abuse.

43
44 The creation of a special assessment classi-
45 fication for "property devoted to agricultural
46 use as prescribed by law" is in a different cate-
47 gory, and we have made such a classification man-
48 datory. There would otherwise be no need for
49 mentioning it, as the Section already authorizes
50 the General Assembly to create such a classification.

1 The special agricultural classification
2 was written into the present Constitution by
3 Chapters 64 and 65 of the Acts of 1960, rati-
4 fied by an overwhelming popular vote. It rep-
5 resents such a recent and strong expression of
6 the public will that we believe it appropriate
7 to continue the classification in positive
8 terms. There is an additional reason for mak-
9 ing it mandatory. Reapportionment will shift
10 political power from rural to urban and sub-
11 urban areas. The public interest demands that
12 agriculture be fostered, and it is desirable
13 that farm land be assessed on the basis of its
14 value for agricultural use rather than on the
15 basis of its potential value for other uses.
16 On the other hand, the objective is to protect
17 agriculture, not to facilitate land speculation.
18 The General Assembly should provide definitions
19 and administrative procedures limiting the bene-
20 fit of this classification to bona fide farmers.

21
22 The Committee divided with respect to special
23 assessment classifications for open-space and agri-
24 cultural uses, the votes being:

25
26 On the deletion of "open-space"
27 from the express language of Section 8.02:
28 9 for deletion
29 6 for inclusion
30

31 On the inclusion of a mandatory
32 classification to cover agricultural use:
33 13 for inclusion
34 2 opposed
35

36 Section 8.02-1 Equalization.

37
38 The State shall prescribe and administer uni-
39 form rules and methods for determining property tax
40 assessments. State funds distributed to political
41 subdivisions on the basis of assessments of pro-
42 perty shall be determined by equalized assessments
43 between such subdivisions, as may be provided by
44 law.
45

46 Comment:

47
48 For over thirty years, tax administrators and
49 public spirited citizens have been waging a con-
50 tinuing struggle for the equalization of property

1 tax assessments. The first organized push was
2 given by the Tax Revision Commission of 1939
3 (known as the second Rawls Commission); then came
4 the Commission for the Distribution of Tax Re-
5 venue (the Sherbow Commission), followed by the
6 Tax Revision Commission of 1949 (the Case Com-
7 mission).

8
9 At the beginning of this crusade, assessments
10 ranged from as low as 20% of value in some locali-
11 ties to as high as 80% in others. Such action con-
12 ferred local benefits with respect to: (1) the
13 State property tax; (2) the taxation of public
14 service corporations; and (3) the distribution of
15 State grants to the localities. In each of these
16 respects, a county which assesses low can shift a
17 portion of its burden to others which assess high-
18 er.

19
20 A great deal has been accomplished in equal-
21 izing assessments, but there is still need for
22 further improvement. This can be brought about
23 only by giving the State the full responsibility
24 for this function. In performing this function
25 in connection with the distribution of State
26 funds to political subdivisions, it is intended that
27 differences in exemptions as well as differences
28 in assessment levels be taken into account.

29
30 The need for Section 8.02-1 has been made
31 more critical by the proposed replacement of
32 Article 15 of the Declaration of Rights by Section
33 8.02. This and 8.02-1 are needed to complement
34 each other; together they will form an essential
35 part of the tax structure of the State.

36
37 Section 8.02-2 Exemptions.

38
39 Exemptions with respect to any tax imposed
40 by the State shall be made pursuant to uniform
41 rules within classes of property, taxpayers or
42 events.

43
44 Comment:

45
46 In the Draft Constitution, exemptions were
47 included in the general language of Section 8.02.
48 We recommend covering them in a separate section;
49 first, to give greater precision, and second, be-
50 cause we feel it necessary to limit the Constitutional

1 requirement of exemption uniformity to those re-
2 lating to State, as distinguished from local,
3 taxes.

4

5 A blanket requirement for uniformity at the
6 present time would have such drastic effects that
7 it is not feasible without complicated provisions
8 to guard against undue hardship. For example, a
9 blanket requirement apparently would invalidate
10 existing agreements made by local governments for
11 the purpose of inducing manufacturers to locate
12 their plants in their areas. There would be many
13 other dislocations, including some of substantial
14 dollar significance.

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1 APPENDIX to Committee Memorandum No. SF-3,
2 stating the position of the Committee on State
3 Finance and Taxation on the issue of (1)
4 legislative delegation of local tax powers
5 versus (2) a blanket Constitutional grant of
6 such powers to the Counties coupled with a
7 right of withdrawal in the General Assembly.

8
9 The Committee recommends that local taxes
10 be conferred exclusively by delegation from
11 the General Assembly, for the following reasons:

12
13
14
15 1. A blanket grant of taxing power to the
16 Counties could impair the credit rating of the
17 State's general obligation bonds.

18
19 The general obligation bonds of the State of
20 Maryland carry the highest credit rating in the
21 country. This reduces interest costs and
22 broadens the market for the bonds. It is a
23 valuable asset of the State.

24
25 The present Constitution requires the dedi-
26 cation of an annual State property tax to service
27 its general obligation bonds. It is desirable to
28 change this requirement in order to make the pro-
29 perty tax more fully available to the localities.
30 For such a change to be feasible, however, the
31 State must pledge its unlimited taxing power to
32 the support of its general obligation bonds, and
33 the Draft Constitution so provides.

34
35 For this pledge to have meaning, the State's
36 taxing power must actually be unlimited, and a
37 grant of blanket taxing power to the Counties
38 could be considered to impair the State's pledge.
39 Nor will the right of the General Assembly to
40 withdraw taxing power cure this. Such a right,
41 by its terms, contemplates action after the event
42 rather than before, and every financial analyst
43 is aware of the fact that once a tax of any mag-
44 nitude has become imbedded in the financial
45 structure, it is not feasible to withdraw it.

46
47 How seriously such an impairment would be
48 regarded in the financial world would to some
49 extent depend upon how the Counties exercise
50 their granted powers. The important point,

1 however, is that the effect of the blanket
2 grant would be to transfer to the Counties a
3 share of the responsibility for the State's
4 credit, rather than leaving the entire respon-
5 sibility with the General Assembly where it
6 belongs.

7
8
9
10 2. Municipal taxes are also part of the over-
11 all tax structure and must be considered in con-
12 text with State and County taxes.

13
14 Municipal taxes also form an important part of
15 the State's tax structure, and there must be a
16 proper allocation of municipal tax powers as
17 well as County tax powers. Section 8.01 (b)
18 applies to all local taxes and has the advantage
19 of permitting the continued development of an
20 orderly State-wide plan for distributing taxing
21 powers.

22
23
24
25 3. The State's tax structure must be con-
26 sidered and dealt with in its entirety, not
27 in separate compartments.

28
29 State and local taxes are interdependent.
30 Whatever affects any part of the tax structure
31 affects the whole structure.

32
33 It is in the public interest that taxes be
34 broad-based, that they be simple, that they be
35 stable, and, so far as possible, that they be
36 uniform. These objectives can be accomplished
37 only by viewing the tax structure in its en-
38 tirety. The preemption of a tax source by a
39 locality limits the availability of that source
40 to the State as a whole. Most of the important
41 tax sources are common to all sections of the
42 State. Their use must be determined on the
43 basis of the total interest of the State, not
44 merely on the basis of the interests of in-
45 dividual localities.

46
47 Economy and convenience of administration
48 also require a State-wide approach. Some
49 taxes are best administered at the State level,
50 some at the local. Local administration of

1 sales taxes, use taxes, income taxes, and most
2 business taxes, is far more expensive and less
3 effective than State administration. Inevi-
4 tably, taxpayers are required to pay more in
5 order to produce the same amount of net reve-
6 nue. In addition, the cost and trouble of
7 compliance is increased by differing tax re-
8 quirements, by the variety of forms that must
9 be filed, and by the necessity of dealing
10 with different local officials operating under
11 varying administrative procedures. To
12 businesses that operate in a number of lo-
13 calities the burden can become crushing.

14
15 All too often, local taxes have the effect,
16 indeed the design, of funnelling revenue from
17 one locality into another; for example, locali-
18 ties sometimes yield to competing desires to
19 tax earnings both at the source and at the place
20 of residence. It is in the interest of the
21 State as a whole to avoid rather than to en-
22 courage such conflicts, and this can be done
23 only by apportioning tax sources from a State-
24 wide viewpoint.

25
26 The vice that is inherent in a broad grant
27 of tax powers to localities in general is not
28 present to the same extent in a broad grant to
29 a specific locality. Here the grant can be
30 tailored to local need, and the competitive
31 element can be curtailed. However, when such
32 a grant was given to Baltimore City, the Gen-
33 eral Assembly found it necessary to withdraw so
34 many tax powers that the grant presently retains
35 little of its original breadth.

36
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38
39 4. Blanket grants of local tax powers have
40 proved unworkable in practice, and have been
41 destructive of stability, simplicity, and uni-
42 formity.

43
44 In 1947 Pennsylvania adopted what has become
45 known as the "tax anything" law, granting
46 blanket tax powers to the localities. The
47 results were not encouraging. Localities com-
48 peted with each other for tax sources. Indi-
49 viduals who commuted between localities were
50 required to pay earnings taxes where they worked

1 and income taxes where they lived, each dup-
2 licating the other. Transients were penalized
3 by heavy taxes on gasoline pumps and parking
4 lots. Some coal businesses were brought to a
5 halt by the cumulative effect of extraction
6 taxes at the location of the mine, additional
7 taxes where the coal was washed and graded, and
8 transportation taxes in still other localities.
9 Interstate business was protected by the U. S.
10 Constitution, but intrastate business was un-
11 protected.

12
13 The latest count available to us shows that
14 the Pennsylvania Legislature has had to pass 27
15 Acts withdrawing local tax powers, and the end
16 is not in sight. Business interests urge with-
17 drawal of the whole package, but some of the
18 taxes have become so imbedded in local financial
19 structures that total withdrawal is not feasible.

20
21 James A. Maxwell, in a recent Brookings In-
22 stitution study on "Financing State and Local
23 Governments", refers to the Pennsylvania situ-
24 ation as follows:

25
26 "In 1947 the state government autho-
27 rized local governments to utilize any
28 tax not used by the state. The response
29 was so exuberant that the state legis-
30 lature was forced to draw up ground
31 rules for the local use of taxing powers.
32 No adequate appraisal of the Pennsylvania
33 experience is available, but it seems
34 likely that the "tax anything" law was
35 not one that should be copied in other
36 states."

37
38 Governor Fine of Pennsylvania, at a 1953
39 meeting of the Tax Institute in Harrisburg,
40 said:

41
42 "When the Legislature considers a
43 new tax, it finds in nearly all cases
44 local governments have beaten them to
45 it, which would mean putting another
46 tax on top of the local government taxes
47 or eliminating the local government taxes
48 on that particular subject."

49
50

1 For detailed analyses of the Pennsylvania
2 experiment, see Proceedings of the National Tax
3 Association: 1948, pp. 12-35; 1949, pp. 217-
4 228; 1955, p. 278, from which the above is
5 quoted.

6
7 A similar experiment was urged at the recent
8 Constitutional Convention in New York. It was
9 strenuously opposed by the New York City Cham-
10 ber of Commerce and by the New York City Bar
11 Association, among others, and was defeated.

12
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14

15 5. The maintenance of a satisfactory business
16 climate is essential to the well being of the
17 State. To this end, it is important that local
18 taxes be stable, simple, and uniform.

19

20 Business climate, like financial climate, is
21 sensitive. A satisfactory business climate is
22 absolutely essential if Maryland is to prosper
23 in competition with other States.

24

25 Mr. William S. Wilson, testifying before the
26 Committee on Local Government on behalf of the
27 Baltimore Chamber of Commerce, put the problem
28 substantially as follows:

29

30 Business, he said, does not object to paying
31 its fair share of taxes. It is more interested
32 in the prosperity of the community in which it
33 operates than it is in getting tax favors. But
34 it cannot tolerate discrimination, or live with
35 burdensome administrative restrictions, and lack
36 of uniformity breeds both.

37

38 From a tax standpoint, he said, a good busi-
39 ness climate is based primarily on simplicity,
40 stability, and uniformity. He added that noth-
41 ing is so destructive as a system in which lo-
42 calities compete with each other for tax sources,
43 and in which variations of tax treatment not
44 only impede the free flow of business but impose
45 burdensome problems of compliance.

46

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50

1 6. Section 8.01 (b) will solve the other-
2 wise critical problem of transition legislation.

3
4 Mr. William L. Marbury, representing the City
5 of Baltimore at the Convention, has stressed the
6 urgent need for the immediate appointment of a
7 commission to work out the difficult problems
8 that will flow from the reversal of the tradi-
9 tional theory of delegated tax powers. He sees
10 this as a State - wide problem, not a Baltimore
11 City problem, but he recognizes that taxes, like
12 localities, are interdependent and that what
13 makes trouble for one will make trouble for all.

14
15 We agree with Mr. Marbury as to the urgency
16 of the problem, but we believe that Section 8.01
17 (b) furnishes a preferable solution, namely, to
18 continue the traditional theory of delegated tax
19 powers. If this solution is adopted, the problem
20 vanishes.

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College Park, Md.

CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Com. Rec.
SF-3

YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
● President			● Clagett			● Key			● Robey, F. C.		
● Tawes			● Clarke, E. J.			● Kiefer			● Robie, K. L.		
● Clark, J. ● Aye			● Cleveland			● Kirkland			● Rollins		
● James			● Dabrowski			● Koger			● Rosenstock		
● Abramson			● Darby			● Kosakowski			● Rush		
● Adkins			● Della			● Koss			● Rybczynski		
● Anderson			● Dorsey			● Leitzel			● Scanlan		
● Armor			● Dukes			● Linton			● Schloeder		
● Bamberger			● Dulany			● Lord			● Schneider		
● Bard			● Eckenrode			● Macdonald			● Sherbow		
● Barrick			● Finch			● Malkus			● Sickles		
● Baumann			● Fornos			● Marion			● Siewierski		
● Beachley			● Fox			● Mason			● Singer		
● Beall			● Frederick			● Maurer			● Smith, J. H.		
● Bennett			● Freedlander			● Mentzer			● Smith, M. H.		
● Blair			● Gallagher			● Miller, B.			● Sollins		
● Boileau			● Gilchrist			● Miller, E. J.			● Sosnowski		
● Borom			● Gill			● Mitchell			● Soul		
● Bothe			● Gleason			● Morgan			● Stern		
● Boyce			● Grant			● Moser			● Storm		
● Boyer			● Groh			● Mosner			● Sybert		
● Boyles			● Grumbacher			● Mudd			● Taylor, H. E.		
● Bradshaw			● Gullett			● Murphy			● Taylor, L.		
● Bryson			● Hanson			● Murray, D. S.			● Ulrich		
● Burdette			● Hardwick			● Murray, E. C.			● Vecera		
● Burgess			● Hargrove			● Needle			● Wagandt		
● Bushong			● Harkness			● Neilson			● Webb		
● Buzzell			● Harris			● Neumann			● Ritter		
● Byrnes			● Henderson			● Smith, A. W.			● Weidemeyer		
● Caldwell			● Hickman			● Pascal			● Wheatley		
● Cardin			● Hopkins			● Penniman			● White		
● Carson			● Hostetter			● Peters			● Willis		
● Case			● Hutchinson			● Powers			● Willoner		
● Chabot			● Jett			● Price			● Winslow		
● Child			● Johnson			● Pullen					
● Cicone			● Kahl			● Raley					

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YEAS	N-V	NAYS
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3 3	3 3	3 3
4 4	4 4	4 4
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NOV. 9
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X To Appendix X X

BY DELEGATE WEIDEMEYER

4 "(c) The State shall not levy, nor shall
5 it allow any political subdivision to levy, a
6 tax on incomes which shall exceed in the
7 aggregate a rate greater than eight percent
8 of taxable income, excluding deductions and
9 exemptions; except that, whenever and for
10 such period of time as the federal tax on in-
11 comes is reduced, this rate may be increased
12 in the same amount by which the federal tax
13 is reduced."

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CONSTITUTIONAL CONVENTION OF MARYLAND
1967
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Amend 2 to
Com. Rec. SF-3

2

EAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
President			Clagett			Key			Robey, F. C.		
Tawes			Clarke, E. J.			Kiefer			Robie, K. L.		
Clark, J.			Cleveland			Kirkland			Rollins		
James			Dabrowski			Koger			Rosenstock		
Abramson			Darby			Kosakowski			Rush		
Adkins			Della			Koss			Rybczynski		
Anderson			Dorsey			Leitzel			Scanlan		
Armor			Dukes			Linton			Schloeder		
Bamberger			Dulany			Lord			Schneider		
Bard			Eckenrode			Macdonald			Sherbow		
Barrick			Finch			Malkus			Sickles		
Baumann			Fornos			Marion			Siewierski		
Beachley			Fox			Mason			Singer		
Beall			Frederick			Maurer			Smith, J. H.		
Bennett			Freedlander			Mentzer			Smith, M. H.		
Blair			Gallagher			Miller, B.			Sollins		
Boileau			Gilchrist			Miller, E. G.			Sosnowski		
Borom			Gill			Mitchell			Soul		
Bothe			Gleason			Morgan			Stern		
Boyce			Grant			Moser			Storm		
Boyer			Groh			Mosner			Sybert		
Boyles			Grumbacher			Mudd			Taylor, H. E.		
Bradshaw			Gullett			Murphy			Taylor, L.		
Bryson			Hanson			Murray, D. S.			Ulrich		
Burdette			Hardwicke			Murray, E. C.			Vecera		
Burgess			Hargrove			Needle			Wagandt		
Bushong			Harkness			Neilson			Webb		
Buzzell			Harris			Neumann			Ritter		
Byrnes			Henderson			Smith, A. W.			Weidemeyer		
Caldwell			Hickman			Pascal			Wheatley		
Cardin			Hopkins			Penniman			White		
Carson			Hostetter			Peters			Willis		
Case			Hutchinson			Powers			Willoner		
Chabot			Jett			Price			Winslow		
Child			Johnson			Pullen					
Cicone			Kahl			Raley					

YEAS	N-V	NAYS
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NOV. 9
DEC. 0

A

Constitutional Convention

AMENDMENT NO. 3

~~XXXXXXXXXXXXXXXXXXXX~~

To Committee Recommendation No. SF-3

BY DELEGATES HANSON, B. MILLER

1 On page 2 Section 8.02 Assessments in line
2 6 strike out the comma and the rest of the
3 sentence in lines 6 through 8, inclusive.
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CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend 3 to

Com Rec. SF 3

2

YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
President		•	Claggett		•	Key		•	Robey, F. C.		•
Tawes		•	Clarke, E. J.		•	Kiefer		•	Robie, K. L.		•
Clark, J.	•		Cleveland	•		Kirkland	•		Rollins		•
James	•		Dabrowski		•	Kozer		•	Rosenstock		•
Abramson		•	Darby		•	Kosakowski	•		Rush		•
Adkins		•	Della		•	Koss	•		Rybczynski		•
Anderson		•	Dorsey		•	Leitzel	•		Scanlan		•
Armor		•	Dukes	•		Linton		•	Schloeder		•
Bamberger		•	Dulany		•	Lord		•	Schneider		•
Bard			Eckenrode		•	Macdonald	•		Sherbow		•
Barrick		•	Finch		•	Malkus		•	Sickles		•
Baumann		•	Fornos		•	Marion	•		Siewierski		•
Beachley		•	Fox		•	Mason	•		Singer		•
Beall		•	Frederick		•	Maurer	•		Smith, J. H.		•
Bennett			Freedlander		•	Mentzer	•		Smith, M. H.		•
Blair	•		Gallagher		•	Miller, B.	•		Sollins		•
Boileau		•	Gilchrist		•	Miller, E. J.	•		Sosnowski	•	
Borom			Gill	•		Mitchell		•	Soul		•
Bothe	•		Gleason	•		Morgan		•	Stern		•
Boyce			Grant		•	Moser		•	Storm		•
Boyer		•	Groh		•	Mosner		•	Sybert		•
Boyles	•		Grumbacher		•	Mudd		•	Taylor, H. E.		•
Bradshaw			Gullett	•		Murphy		•	Taylor, L.		•
Bryson		•	Hanson	•		Murray, D. S.		•	Ulrich		•
Burdette		•	Hardwicke	•		Murray, E. C.		•	Vecera		•
Burgess		•	Hargrove		•	Needle	•		Wagandt	•	
Bushong	•		Harkness		•	Neilson		•	Webb		•
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Byrnes			Henderson		•	Smith, A. W.		•	Weidemeyer		•
Caldwell		•	Hickman		•	Pascal		•	Wheatley		•
Cardin		•	Hopkins		•	Penniman		•	White		•
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Chabot			Jett		•	Price	•		Winslow		•
Child		•	Johnson		•	Pullen		•			
Cicone	•		Kahl		•	Raley		•			

YEAS	N-V	NAYS
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B

Constitutional Convention

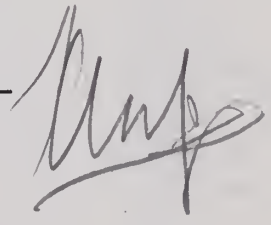
AMENDMENT NO. 4

~~XXXXXXXXXXXXXXXXXXXX~~

To Committee Recommendation No. SF-3

BY DELEGATES HANSON, B. MILLER

1 On page 2 Section 8.02 Assessments in line
2 7 strike out the word "shall" and insert
3 in lieu thereof the word "may".
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CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend 4 to
Com. Rec. SF-3

YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
President		•	Claggett		•	Key		•	Robey, F. C.		•
Tawes		•	Clarke, E. J.		•	Kiefer		•	Robie, K. L.		•
Clark, J.	•		Cleveland	•		Kirkland	•		Rollins		•
James	•		Dabrowski		•	Koger		•	Rosenstock		•
Abramson		•	Darby		•	Kosakowski	•		Rush		•
Adkins		•	Della	•		Koss	•		Rybczynski		•
Anderson		•	Dorsey		•	Leitzel	•		Scanlan		•
Armor	•		Dukes	•		Linton		•	Schloeder		•
Bamberger	•		Dulany		•	Lord	•		Schneider		•
Bard		•	Eckenrode		•	Macdonald	•		Sherbow		•
Barrick		•	Finch		•	Malkus		•	Sickles		•
Baumann		•	Fornos		•	Marion	•		Siewierski		•
Beachley		•	Fox		•	Mason	•		Singer	•	
Beall		•	Frederick		•	Maurer	•		Smith, J. H.		•
Bennett	•		Freedlander		•	Mentzer	•		Smith, M. H.		•
Blair	•		Gallagher		•	Miller, B.	•		Sollins		•
Boileau	•		Gilchrist		•	Miller, E. T.	•		Sosnowski	•	
Borom	•		Gill	•		Mitchell	•		Soul		•
Bothe	•		Gleason	•		Morgan		•	Stern		•
Boyce			Grant	•		Moser		•	Storm		•
Boyer		•	Groh		•	Mosner	•		Sybert		•
Boyles	•		Grumbacher		•	Mudd		•	Taylor, H. E.		•
Bradshaw	•		Gullett	•		Murphy		•	Taylor, L.		•
Bryson		•	Hanson	•		Murray, D. S.		•	Ulrich		•
Burdette		•	Hardwick	•		Murray, E. C.		•	Vecera		•
Burgess		•	Hargrove	•		Needle	•		Wagandt		•
Bushong	•		Harkness		•	Neilson		•	Webb		•
Buzzell		•	Harris		•	Neumann		•	Ritter		•
Byrnes		•	Henderson	•		Smith, A. W.		•	Weidemeyer		•
Caldwell		•	Hickman		•	Pascal		•	Wheatley		•
Cardin		•	Hopkins		•	Penniman		•	White	•	
Carson		•	Hostetter		•	Peters		•	Willis	•	
Case		•	Hutchinson		•	Powers		•	Willoner		•
Chabot	•		Jett		•	Price	•		Winslow		•
Child		•	Johnson		•	Pullen		•			
Cicone	•		Kahl	•		Raley		•			

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C O N S T I T U T I O N A L C O N V E N T I O N O F M A R Y L A N D

INTRA-CONVENTION MEMORANDUM

DATE: 21 November 1967
TO: H. Vernon Eney, President
FROM: Mr. Ira J. Wagonheim, Chief Clerk
SUBJECT: Delegate Proposals covered by committee recommendation
returned to Clerk's Office.

The Committee on STATE FINANCE AND TAXATION has returned
the following proposals with the report that they are covered
by Committee Recommendation S.F. 4:

6

*for second readings,
see
S & D 10*

Ira J. Wagonheim
Ira J. Wagonheim
Chief Clerk

Constitutional Convention

COMMITTEE RECOMMENDATION NO. SF 4

BY THE COMMITTEE ON STATE FINANCE AND TAXATION
Joseph Sherbow, Chairman

November 9, 1967.

Presented, read, and referred to the Committee of the Whole.

By order, IRA J. WAGONHEIM, Chief Clerk.

This Recommendation covers Delegate Proposals Nos. 6 (in part)

TITLE

1 A RECOMMENDATION that the State Constitution
2 include the following provisions with respect
3 to State Debts and Gifts.

4
5 The Committee on State Finance and Taxation
6 recommends that the State Constitution include
7 the following provisions with respect to State
8 Debts and Gifts:

9
10 Section 6.01. State Indebtedness.

11
12 The State shall have the power to incur
13 indebtedness for any public purpose in such man-
14 ner and upon such terms and conditions as the
15 General Assembly may prescribe by law. Unless
16 the law authorizing the creation of an obliga-
17 tion includes an irrevocable pledge of the full
18 faith and credit of the State, the obligation
19 shall not be considered an indebtedness of the
20 State and the terms of this Section shall not
21 apply; but if it includes such a pledge it shall
22 be secured by the unlimited taxing power of the
23 State and shall be subject to the terms of this
24 Section. If at any time the General Assembly

1 shall have failed to appropriate and to make
2 available sufficient funds to provide for the
3 timely payment of the interest and principal
4 then due upon all State indebtedness, it shall
5 be the duty of the Comptroller to pay, or to
6 make available for payment, to the holders of
7 such indebtedness from the first revenues
8 thereafter received applicable to the general
9 funds of the State, a sum equal to such inter-
10 est and principal. All State indebtedness
11 shall mature within fifteen years from the time
12 when such indebtedness is incurred, except that
13 at the time of authorizing the indebtedness the
14 General Assembly may extend the period to not
15 more than twenty-five years by the affirmative
16 vote of three-fifths of all the members of each
17 house.

18
19

20 Section 6.02. Gift or Loan of Assets or Credit.

21

22 The assets or credit of the State shall not
23 in any manner be given or loaned to any individ-
24 ual, association, or corporation unless a public
25 purpose will be served thereby and unless
26 authorized by an act of the General Assembly
27 stating the public purpose. A gift of assets
28 may be authorized by the affirmative vote of a
29 majority of all the members of each house, but
30 a gift of credit or a loan of credit or a loan
31 of assets shall require the affirmative vote of
32 three-fifths of such members.

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College Park, Md.

CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Com. Rec. SF-4

2

YEAS	N-V	NAYS
● President		
● Tawes		
● Clark, J.		
● James		
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● Adkins		
● Anderson		●
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● Clarke, E. J.		
● Cleveland		
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● Smith, J. H.		
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Constitutional Convention

COMMITTEE MEMORANDUM NO. SF 4

BY THE COMMITTEE ON STATE FINANCE AND TAXATION
Joseph Sherbow, Chairman

November 9 , 1967.

In support of Committee Recommendation No. SF 4

Maryland Room
University of Maryland Library
College Park, Md.

1 Section 6.01 State Indebtedness

2
3 The State shall have the power to incur in-
4 debtedness for any public purpose in such man-
5 ner and upon such terms and conditions as the
6 General Assembly may prescribe by law. Unless
7 the law authorizing the creation of an obliga-
8 tion includes an irrevocable pledge of the full
9 faith and credit of the State, the obligation
10 shall not be considered an indebtedness of the
11 State and the terms of this Section shall not
12 apply; but if it includes such a pledge it shall
13 be secured by the unlimited taxing power of the
14 State and shall be subject to the terms of this
15 Section. If at any time the General Assembly
16 shall have failed to appropriate and to make
17 available sufficient funds to provide for the
18 timely payment of the interest and principal
19 then due upon all State indebtedness, it shall
20 be the duty of the Comptroller to pay, or to
21 make available for payment, to the holders of
22 such indebtedness from the first revenues
23 thereafter received applicable to the general
24 funds of the State, a sum equal to such inter-
25 est and principal. All State indebtedness
26 shall mature within fifteen years from the time
27 when such indebtedness is incurred, except that
28 at the time of authorizing the indebtedness the
29 General Assembly may extend the period to not
30 more than twenty-five years by the affirmative
31 vote of three-fifths of all the members of each
32 house.

1 Comment:

2
3 The Committee's Recommendation proposes
4 three major changes in the provision of the
5 present Constitution (Art. III, Sec. 34) relat-
6 ing to general obligation bonds of the State:
7 (1) the substitution of a pledge of the unlim-
8 ited taxing power of the State for the dedica-
9 tion of an annual tax (in practice, a State
10 property tax) to cover debt service; (2) an ex-
11 tension, subject to the conditions stated, of
12 the permissible maturity period from fifteen
13 to twenty-five years; and (3) provision for
14 greater flexibility with respect to State gifts
15 or loans of assets or credit. The first two
16 of these changes are reflected in Section 6.01,
17 as set out above; the third in Section 6.02,
18 dealt with below.

19

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24

Substitution of Pledge
of
Unlimited Taxing Power

25

26 There is virtual unanimity of opinion
27 in favor of the State's withdrawal from the use
28 of the property tax so as to make it more fully
29 available to the localities. It is their prim-
30 ary tax source and is peculiarly adapted to
31 their needs, just as the income tax and the sales
32 tax are adapted to State needs.

32

33

34 The principal obstacle to the State's with-
35 drawal from the continued use of the property
36 tax is Article III, Sec. 34 of the present Con-
37 stitution which requires that general obligation
38 bonds of the State be secured by an annual tax
39 sufficient to cover debt service. The Committee
40 Recommendation, following the Commission Draft
41 of Constitution, seeks to overcome this obstacle
42 by substituting a pledge of the unlimited taxing
43 power of the State for the dedication of an an-
44 nual tax, which in practice has been and must be
45 a property tax. This proposal, as it appeared
46 in the Commission Draft, has obtained general
47 acceptance, and the leading bond rating organi-
48 zations have advised that it will not impair the
49 standing of the State's general obligation bonds.

49

50

 This change does not affect the State's

1 right to impose a property tax, but only the
2 continued exercise of that right. The State
3 must retain the right to resort to the property
4 tax, if necessary; and so long as bonds remain
5 outstanding to which the tax is dedicated, it
6 must be continued in effect.

7
8 This change has made it necessary to furn-
9 ish a means whereby bondholders can enforce the
10 State's pledge of its unlimited taxing power.
11 To this end, Section 6.01 provides that upon de-
12 fault of appropriation to cover debt service, it
13 shall be the duty of the Comptroller to pay the
14 amounts due bondholders from the first revenues
15 thereafter received applicable to the general
16 funds of the State.

17
18 The express designation of the Comptroller
19 is designed to satisfy a legal technicality.
20 Where a specific duty is imposed by law on a
21 public official, he can be compelled to perform
22 that duty by an action of mandamus, although the
23 State as such is not subject to such an action.
24 Accordingly, it is necessary to refer to a spe-
25 cific officer in order to remove any doubt as to
26 the ability of holders of State indebtedness to
27 enforce the rights conferred upon them by their
28 contract with the State. If the Constitution
29 should designate some other official as the recip-
30 ient of tax collections, his title should be
31 substituted or he should be designated in some
32 other way, such as "the chief fiscal officer of
33 the State." It is important, however, that the
34 designation be sufficiently specific to remove
35 any doubt as to the individual intended.

36 37 Extension of Maturity Limitation

38
39 The second major change is to permit the
40 extension of the maturity period of general ob-
41 ligation bonds of the State from fifteen to
42 twenty-five years by the affirmative vote of
43 three-fifths of all the members of each house.

44
45 The fifteen year maturity limitation has
46 served the State well. It has reduced interest
47 costs and has helped to hold down the amount of
48 State debt. It is one of the factors contribut-
49 ing to the high rating enjoyed by general obliga-
50 tion bonds of the State of Maryland. But a

1 majority of the Committee, as well as Governor
2 Agnew, feels that greater flexibility should
3 be afforded in order to enable the State to meet
4 possible emergencies. With this end in view,
5 provision is made for an extension to twenty-five
6 years when authorized by a three-fifths vote of
7 each house, it being the belief of the Committee
8 that the necessity for a special vote will serve
9 as sufficient warning against action that might
10 be imprudent except to meet an emergency.

11
12 The action of the Committee on this point
13 represented a compromise, and individual Dele-
14 gates expressed preferences for differing limi-
15 tation periods varying from fifteen years to
16 unlimited. The vote favoring the compromise was
17 11 to 3 with one abstention.

18
19 The Committee has received letters from the
20 two major bond rating organizations (Moody's In-
21 vestors Service, Inc. and Standard and Poor's
22 Corporation) stating that the increase in matur-
23 ity limitation from fifteen to twenty-five years
24 will not of itself result in a change in the
25 triple A rating currently accorded to general ob-
26 ligation bonds of the State.

27

28

29 General Considerations

30

31 The Committee has had the benefit of de-
32 tailed advice from eminent bond counsel, includ-
33 ing the Attorney General of Maryland, as to the
34 terms of Section 6.01. In the light of their
35 comments it seems desirable to amplify certain
36 points as follows:

37

38 1. The reference in Section 6.01 to in-
39 debtedness secured by a pledge of the full faith
40 and credit of the State does not exclude other
41 forms of State obligation, such as revenue bonds
42 and limited obligation bonds. The section im-
43 poses limitations on bonds that pledge the full
44 faith and credit of the State; but it leaves un-
45 restricted other forms of State bonds, provided
46 only that they be incurred for a public purpose
47 and upon such terms and conditions as the Gener-
48 al Assembly may prescribe by law.

49

50 2. Section 6.01 is not intended to permit

1 the issuance of bonds to refund other bonds.
2 The primary purpose of a refunding would be to
3 benefit the holders of the bonds refunded, which
4 would be a private, not a public purpose. The
5 present Constitution requires an annual tax suf-
6 ficient to pay general obligation bonds supported
7 by the full faith and credit of the State. Al-
8 though the requirement of an annual tax has been
9 omitted, it is nevertheless the intention of the
10 Section that general obligation bonds of the
11 State will be paid from revenues of the State.
12 This intention is reflected in the language of
13 Section 6.01 providing specifically for payment
14 of state indebtedness out of available revenue
15 in the event of a failure of appropriations.

16

17

18 Section 6.02 Gift or Loan of Assets or Credit

19

20 The Assets or credit of the State shall not
21 in any manner be given or loaned to any individ-
22 ual, association, or corporation unless a public
23 purpose will be served thereby and unless
24 authorized by an act of the General Assembly
25 stating the public purpose. A gift of assets
26 may be authorized by the affirmative vote of a
27 majority of all the members of each house, but
28 a gift of credit or a loan of credit or a loan
29 of assets shall require the affirmative vote of
30 three-fifths of such members.

31

32 Comment:

33

34 This Section appeared as one sentence in
35 Delegate Proposal No. 6. It has been rewritten
36 into two sentences to promote clarity, but with-
37 out any change of substance or meaning.

38

39 The present Constitution (Art III, Sec. 34)
40 bars (a) a gift of credit; (b) a loan of credit,
41 or (c) a loan of assets, by the State, in aid of
42 any individual, association or corporation. This
43 prohibition stems from the collapse of the "in-
44 ternal improvement" boom of the early 19th Cen-
45 tury, which brought the State to the brink of
46 financial disaster as a result of its involvement
47 in the Chesapeake and Ohio Canal, the Baltimore
48 and Ohio Rail Road, and other projects of like
49 nature. As construed by the Court of Appeals,
50 however, the present Constitution does not bar

1 a gift of assets, and there are many instances
2 of such gifts by annual or other appropriations
3 to private institutions performing functions
4 which might otherwise be regarded as obligations
5 of the State; for example, educational institu-
6 tions.

7
8 The concept of "public purpose" is a chang-
9 ing one. Many things are regarded as serving
10 a public purpose today which would not have
11 been so regarded fifty or a hundred years ago,
12 and like changes are to be anticipated in the
13 future. Accordingly, it is desirable that the
14 provisions of the Constitution on this subject
15 be flexible. The determination of what is a
16 public purpose should be a responsibility of
17 the General Assembly in the first instance,
18 with the courts having the power to correct
19 abuses. This is the intention of Section 6.02.

20
21 The reason for requiring a three-fifths
22 vote for a gift of credit or loan of credit or
23 loan of assets is to create a warning that each
24 of these requires extraordinary justification,
25 each being barred by the existing Constitution.
26 On the other hand, serious complications might
27 result from a similar restriction on gifts of
28 assets. These involve current transactions,
29 rather than the creation of future obligations,
30 and are reflected in the budget. To specify
31 a three-fifths vote in their case might subject
32 the entire budget bill to this requirement.

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University of Maryland Library
College Park, Md.

Constitutional Convention

MINORITY REPORT NO. SF-4(A)

BY DELEGATES STERN, MENTZER AND DUKES

Maryland Room
University of Maryland Library
College Park, Md.

OF THE COMMITTEE ON STATE FINANCE & TAXATION

November 17 , 1967.

Presented and received.

By order, IRA J. WAGONHEIM, Chief Clerk.

This Minority Report relates to Committee Recommendation No. SF-4

TITLE

1 A MINORITY REPORT that general obligation
2 bonds of the State be limited to a maturity of
3 fifteen years; to this end that the words in
4 brackets be deleted from the last sentence of
5 Section 6.01:

6

7 All State indebtedness shall mature
8 within fifteen years from the time
9 when such indebtedness is incurred
10 [, except that at the time of auth-
11 orizing the indebtedness the General
12 Assembly may extend the period to not
13 more than twenty-five years by the
14 affirmative vote of three-fifths of
15 all the members of each house].

16

17 This change will continue the 15 year limi-
18 tation that has been in effect since the Consti-
19 tution of 1851 and that has contributed to the
20 high rating enjoyed by general obligation bonds
21 of the State of Maryland.

22

23 The Draft Constitution proposes that the
24 maturity limitation be extended to 25 years.
25 This was referred to our Committee and was the
26 subject of a number of hearings. In general,
27 witnesses connected with the investment banking

1 business testified in favor of 25 years; those
2 connected with the State's finances were for
3 15.

4
5 State of Maryland bonds enjoy a triple A
6 rating. This is the highest rating possible.
7 The higher the rating, the lower the interest
8 rate and the better the market.

9
10 For over a century the 15 year maturity limi-
11 tation has stood the most rigorous of all tests,
12 the test of the market place. This period has
13 produced wide fluctuations in the money market,
14 including three major depressions. Today, in a
15 tight money market our triple A rating assures
16 us the lowest available interest rate.

17
18 The language of Section 6.01, as recommended
19 by the majority, represents a compromise. Among
20 the alternatives were:

21
22 Retention of the 15 year limitation

23
24 Extending it to 20 or 25 years

25
26 Eliminating any limitation

27
28 The so-called compromise is really no compromise
29 at all. In our opinion it has the effect of
30 changing the limit from 15 years to 25 years.

31
32 A research staff study shows that in the
33 last ten years the General Assembly has auth-
34 orized fourteen bond issues. The largest num-
35 ber of votes cast against any single issue,
36 taking both houses together, was eleven; the
37 next largest, seven; and the third largest, two.
38 Most of the issues were authorized without any
39 opposition at all.

40
41 In the face of this record, what reason is
42 there to believe that the requirement of a
43 three-fifths vote will operate as a deterrent?
44 If the majority had been interested in provid-
45 ing a deterrent, it would have accepted
46 Governor Agnew's recommendation that the
47 maturity be limited to 15 years unless the
48 Governor certified the necessity of an ex-
49 tension. Objection was made, however, that
50 this would violate the Committee compromise,

1 and the recommendation was voted down nine to
2 three.

3
4 The following witnesses testified before the
5 Committee in opposition to any increase in the
6 15 year limitation on the maturity of State bonds
7 (listed in order of their appearance):

8
9 John A. Luetkemeyer, State Treasurer
10 Harry R. Hughes, Senate Majority Leader
11 William M. Houck, Chairman, House Ways
12 and Means Committee
13 Louis L. Goldstein, State Comptroller
14 James P. Slicher, Director of the Budget
15 Albert W. Ward, Director, Department of
16 Assessments & Taxation
17 John A. Donaho, Management Consultant
18

19 Each of the above witnesses testified that if
20 the bond maturity period is increased as proposed,
21 they believe that political pressures will force
22 the Legislature to use the longer period.

23
24 In addition, written recommendations against
25 an extension of the 15 year maturity limitation
26 were received from:

27
28 The Legislative Liaison Committee
29 (expressed as the unanimous opinion of
30 all fourteen members).

31
32 Stein Bros. and Boyce (in a letter
33 addressed to the State Treasurer).
34

35
36 Although an increase in maturity has the effect
37 of decreasing the current cost of debt service for
38 the same amount of bonds (since it spreads it over
39 a longer period), it necessarily increases the
40 total cost. This was recognized by all witnesses
41 before the Committee, both pro and con.

42
43
44 Mr. Goldstein submitted schedules on this
45 point, computed in each instance on one million
46 dollars of serially maturing bonds carrying an
47 interest rate of 3.6674 % (the present composite
48 rate). These schedules show the following
49 results:
50

		Average Annual Debt Service <u>Int. + Prin</u>	Total Interest <u>Payable</u>	Int. Payable per Borrowed <u>Dollar</u>
1				
2				
3				
4				
5	15 yrs.	89,416.77	341,251.57	34 %
6				
7	25 yrs.	62,811.23	570,280.70	57 %
8				

9 These figures do not reflect the increase in
10 interest rate that would result from lengthening
11 the maturity of the bonds.

12 Both the proponents and the opponents made
13 reference to the possibility of measuring the
14 maturity period by the useful life of the
15 facilities being financed. While this is im-
16 portant with respect to revenue bonds, it has
17 less pertinence to general obligation bonds.
18 Furthermore, it is often a difficult test to
19 apply, inasmuch as a large portion of the cost
20 of school and other buildings is represented by
21 equipment (air conditioning, heating, etc.) which
22 has a shorter life than the structure itself.
23

24 Most of the witnesses opposing the maturity
25 extension took the position that if any change is
26 to be made, it should be in the direction of pay-
27 as-you-go, not in the opposite direction.
28

29 The Chairman of the Committee asked every wit-
30 ness whether the extension of the limitation
31 period proposed in the Draft Constitution would
32 result in the replacement of 15 year bonds by 25
33 year bonds. Without an exception, every witness
34 said that it would. This included all the in-
35 vestment banking witnesses as well as the wit-
36 nesses who opposed the extension of the maturity
37 limitation.
38

39 The members of the Legislative Liaison Com-
40 mittee, all of them leaders in the General
41 Assembly, were especially emphatic in their
42 opinion that an extension of the maturity
43 limitation to 25 years would have the political
44 effect of forcing the issuance of bonds on a
45 25 year basis.
46

47 There was no evidence that Maryland has ever
48 experienced difficulty in getting needed financ-
49 ing on 15 year bonds. State officials testified
50

1 that the 15 year limitation had never caused
2 difficulty, and Mr. Robert K. Frey, Vice Presi-
3 dent of Mercantile Safe Deposit and Trust Co.,
4 stated that there should continue to be a good
5 market for such bonds.

6
7 All the witnesses who were questioned on the
8 point testified that an extension in maturity
9 would result in an increase in interest rate.
10 This is illustrated by the fact that the bid price
11 on serial bonds of the State of Maryland sold in
12 June, 1967, increased from 3.60 for the early years
13 to 3.70 % for those due in 1979-82. The price or
14 yield on serial bonds of Baltimore County sold in
15 May, 1967, to mature over a 30 year period, varied
16 from 2.80% for those due in 1969 to 4.25 % for
17 those due in 1995-97.

18
19 This increase in interest rate is not reflected
20 in the comparison of total interest costs submitted
21 by the Comptroller, and the disparity in interest
22 cost would be greater if this factor were taken
23 into consideration.

24
25 An increase in maturity limitation from 15 to 25
26 years will not of itself have an adverse effect on
27 the triple A rating currently enjoyed by bonds of
28 the State of Maryland. It has been argued from
29 this that we should not hesitate to extend the
30 maturity limitation. This is a non-sequitur. The
31 true test is one of cost. The rating is important
32 because a high rating means less cost, but it is
33 the cost that is important not just the rating.

34
35 Whether the rating would remain triple A would
36 depend on the volume of debt that would result
37 from an extended maturity. All the witnesses who
38 testified on the point agreed that an extension of
39 maturity would increase the volume of debt, and
40 it is obvious that at some point the increase could
41 impair the rating.

42
43 The Vice Chairman of the Committee described
44 this very well in a letter published in the Balti-
45 more Sun of October 10, 1967, (distributed as a
46 memorandum to Delegate Proposal No. 6):

47
48 "It is the amount of debt, not its
49 term, that weighs most heavily with
50 the rating agencies."

1 The real issue is cost. How much more will
2 the State be required to pay in interest charges
3 if the maturity limitation is extended?
4

5 The comparative figures submitted by the Comp-
6 troller were computed, for the purpose of simplic-
7 ity, on one million dollars of bonds issued
8 serially. In one case he used a 15 year period,
9 in the other a 25 year period. He showed that
10 the use of a 25 year period will cost the State
11 \$229,030 in additional interest charges for each
12 million dollars of bonds, using a uniform interest
13 rate of 3.6674 %.
14

15 As of June 30, 1967, bonds to which the State's
16 credit was pledged amounted to \$442,168,000. As
17 of June 30, 1968, the Comptroller estimates the
18 amount outstanding at \$514,309,000. He also
19 estimates that the level will continue to in-
20 crease even if the 15 year maturity limitation
21 is retained, and that the increase will be
22 accelerated by an extension of maturity. Assum-
23 ing \$500,000,000 of bonds, the difference in
24 interest charges between 15 years and 25 years,
25 without any increase in interest rate, would be
26 \$114,515,000.
27

28 This indicates the magnitude of the saving
29 from the retention of 15 year bonds.
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Maryland Room
University of Maryland Library
College Park, Md.

A

Constitutional Convention

AMENDMENT NO. 1

To Accompany Minority Report SF-4(A)

~~XXXXXXXXXXXX~~ No. _____

To Committee Recommendation No. SF-4

BY DELEGATES STERN, MENTZER, DUKES

Uly

1 On page 2 Section 6.01 State Indebtedness
2 in lines 12 through 17, inclusive, strike out
3 beginning with the word ", except" in line 12
4 down to and including the word "house" in
5 line 17.
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44-A

66-N

CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend. 1 to
Com. Rec. SF-4

YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
President		●	● Clagett			Key		●	Robey, F. C.		●
Tawes		●	Clarke, E. J.		●	Kiefer		●	Robie, K. L.		●
● Clark, J.			Cleveland		●	● Kirkland			Rollins		●
James		●	● Dabrowski			Koger		●	Rosenstock		●
Abramson		●	Darby		●	● Kosakowski			Rush		●
Adkins		●	Della		●	Koss		●	● Rybczynski		
● Anderson			● Dorsey			Leitzel		●	Scanlan		●
Armor		●	Dukes		●	● Linton			Schloeder		●
Bamberger		●	Dulany		●	Lord		●	● Schneider		
Bard		●	Eckenrod		●	Macdonald			Sherbow		●
Barrick		●	● Finch			Malkus		●	Sickles		●
Baumann		●	Fornos		●	Marion		●	● Siewierski		
Beachley		●	Fox		●	Mason		●	Singer		●
Beall		●	Frederick		●	Maurer		●	● Smith, J. H.		
Bennett		●	● Freedlander			● Mentzer			Smith, M. H.		●
Blair		●	Gallagher		●	Miller, B.		●	Sollins		●
Boileau		●	Gilchrist		●	Miller, E. J.			Sosnowski		●
Borom		●	Gill		●	● Mitchell			Soul		●
Bothe		●	Gleason		●	Morgan		●	● Stern		
Boyce		●	● Grant			Moser		●	● Storm		
● Boyer			● Groh			Mosner		●	Sybert		●
● Boyles			Grumbacher		●	Mudd		●	● Taylor, H. E.		
Bradshaw		●	Gullett		●	Murphy		●	● Taylor, L.		
Bryson		●	Hanson		●	● Murray, D. S.			● Ulrich		
Burdette		●	Hardwick		●	● Murray, E. C.			Vecera		●
● Burgess			Hargrove		●	Needle		●	Wagandt		●
Bushong		●	● Harkness			● Neilson			Webb		●
Buzzell		●	● Harris			Neumann		●	● Ritter		
Byrnes		●	● Henderson			Smith, A. W.		●	● Weidemeyer		
Caldwell		●	● Hickman			● Pascal			Wheatley		●
Cardin		●	Hopkins		●	Penniman		●	● White		
Carson		●	● Hostetter			Peters		●	Willis		●
Case		●	● Hutchinson			● Powers			● Willoner		
Chabot		●	● Jett			Price		●	● Winslow		
Child		●	● Johnson			Pullen		●			
Cicone		●	Kahl		●	Raley		●			

YEAS	N-V	NAYS
100-200	100-200	100-200
0 0	0 0	0 0
1 1	1 1	1 1
2 2	2 2	2 2
3 3	3 3	3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

DEL. PRO.	COM. REC.
1000 100	10 1
2000 200	20 2
3000 300	30 3
4000 400	40 4
	50 5
RESO. 600	60 6
2-R. 700	70 7
3-R. 800	80 8
QUO. 900	90 9
MOT. 000	00 0

DATE: 1
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SEPT. 7
OCT. 8
NOV. 9
DEC. 0

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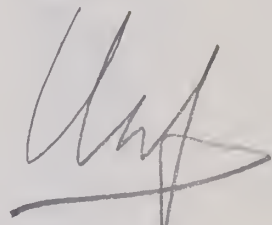
Constitutional Convention

AMENDMENT NO. 2

~~XXXXXXXXXXXXXXXXXXXX~~

To Committee Recommendation No. SF-4

BY DELEGATE MENTZER



1 On page 2 Section 6.01 State Indebtedness
2 in line 15 after the word "years" add the
3 following words: "upon the prior certifi-
4 cation of need by the governor and".

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34 A
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CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend. 2 to 2
Com. Rec. SF-4

YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
President			Clagett			Key			Robey, F. C.		
Tawes			Clarke, E. J.			Kiefer			Robie, K. L.		
Clark, J.			Cleveland			Kirkland			Rollins		
James			Dabrowski			Koger			Rosenstock		
Abramson			Darby			Kosakowski			Rush		
Adkins			Della			Koss			Rybczynski		
Anderson			Dorsey			Leitzel			Scanlan		
Armor			Dukes			Linton			Schloeder		
Bamberger			Dulany			Lord			Schneider		
Bard			Eckenrod			Macdonald			Sherbow		
Barrick			Finch			Malkus			Sickles		
Baumann			Fornos			Marion			Siewierski		
Beachley			Fox			Mason			Singer		
Beall			Frederick			Maurer			Smith, J. H.		
Bennett			Freedlander			Mentzer			Smith, M. H.		
Blair			Gallagher			Miller, B.			Sollins		
Boileau			Gilchrist			Miller, E. J.			Sosnowski		
Borom			Gill			Mitchell			Soul		
Bothe			Gleason			Morgan			Stern		
Boyce			Grant			Moser			Storm		
Boyer			Groh			Mosner			Sybert		
Boyles			Grumbacher			Mudd			Taylor, H. E.		
Bradshaw			Gullett			Murphy			Taylor, L.		
Bryson			Hanson			Murray, D. S.			Ulrich		
Burdette			Hardwick			Murray, E. C.			Vecera		
Burgess			Hargrove			Needle			Wagandt		
Bushong			Harkness			Neilson			Webb		
Buzzell			Harris			Neumann			Ritter		
Byrnes			Henderson			Smith, A. W.			Weidemeyer		
Caldwell			Hickman			Pascal			Wheatley		
Cardin			Hopkins			Penniman			White		
Carson			Hostetter			Peters			Willis		
Case			Hutchinson			Powers			Willoner		
Chabot			Jett			Price			Winslow		
Child			Johnson			Pullen					
Cicone			Kahl			Raley					

YEAS	N-V	NAYS
100-200	100-200	100-200
0	0	0
1	1	1
2	2	2
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DEL. PRO.	COM. REC.
1000	100
2000	200
3000	300
4000	400
	500
RESO.	600
2-R.	700
3-R.	800
QUO.	900
MOT.	000

DATE: 1
JAN. 2
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SEPT. 7
OCT. 8
NOV. 9
DEC. 0

B

Constitutional Convention

AMENDMENT NO. 3

~~XXXXXXXXXXXXXXXXXXXX~~

To Committee Recommendation No. SF-4

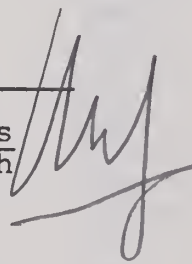
BY DELEGATE GRUMBACHER

1 On page 2 Section 6.01 State Indebtedness
2 strike out the last sentence beginning with
3 the word "All" in line 10 and extending
4 through the word "house." in line 17.

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17-A

79-N



CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend. 3 to
Com. Rec. 5F-4

YEAS	N-V	NAYS
President		
Tawes		
Clark, J.		
James		
Abramson		
Adkins		
Anderson		
Armor		
Bamberger		
Bard		
Barrick		
Baumann		
Beachley		
Beall		
Bennett		
Blair		
Boileau		
Borom		
Bothe		
Boyce		
Boyer		
Boyles		
Bradshaw		
Bryson		
Burdette		
Burgess		
Bushong		
Buzzell		
Byrnes		
Caldwell		
Cardin		
Carson		
Case		
Chabot		
Child		
Cicone		

YEAS	N-V	NAYS
Clagett		
Clarke, E. J.		
Cleveland		
Dabrowski		
Darby		
Della		
Dorsey		
Dukes		
Dulany		
Eckenrod		
Finch		
Fornos		
Fox		
Frederick		
Freedlander		
Gallagher		
Gilchrist		
Gill		
Gleason		
Grant		
Groh		
Grumbacher		
Gullett		
Hanson		
Hardwick		
Hargrove		
Harkness		
Harris		
Henderson		
Hickman		
Hopkins		
Hostetter		
Hutchinson		
Jett		
Johnson		
Kahl		

YEAS	N-V	NAYS
Key		
Kiefer		
Kirkland		
Koqer		
Kosakowski		
Koss		
Leitzel		
Linton		
Lord		
Macdonald		
Malkus		
Marion		
Mason		
Maurer		
Mentzer		
Miller, B.		
Miller, E. T.		
Mitchell		
Morgan		
Moser		
Mosner		
Mudd		
Murphy		
Murray, D. S.		
Murray, E. C.		
Needle		
Neilson		
Neumann		
Smith, A. W.		
Pascal		
Penniman		
Peters		
Powers		
Price		
Pullen		
Raley		

YEAS	N-V	NAYS
Robey, F. C.		
Robie, K. L.		
Rollins		
Rosenstock		
Rush		
Rybczynski		
Scanlan		
Schloeder		
Schneider		
Sherbow		
Sickles		
Siewierski		
Singer		
Smith, J. H.		
Smith, M. H.		
Sollins		
Sosnowski		
Soul		
Stern		
Storm		
Sybert		
Taylor, H. E.		
Taylor, L.		
Ulrich		
Vecera		
Wagandt		
Webb		
Ritter		
Weidemeyer		
Wheatley		
White		
Willis		
Willoner		
Winslow		

YEAS	N-V	NAYS
100-200	100-200	100-200
0 0	0 0	0 0
1 1	1 1	1 1
2 2	2 2	2 2
3 3	3 3	3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

DEL. PRO.	COM. REC.
1000 100	10 1
2000 200	20 2
3000 300	30 3
4000 400	40 4
	50 5
RESO. 600	60 6
2-R. 700	70 7
3-R. 800	80 8
QUO. 900	90 9
MOT. 000	00 0

DATE: 1
JAN. 2
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SEPT. 7
OCT. 8
NOV. 9
DEC. 0

D

Constitutional Convention

AMENDMENT NO. 4

~~XXXXXXXXXXXXXXXXXXXX~~

To Committee Recommendation No. SF-4

BY DELEGATE MENTZER

1 On page 2 strike out all of Section 6.02
2 Gift or Loan of Assets or Credit and insert
3 in lieu thereof the following:
4
5 "Section 6.02 Gift or Loan of Credit
6
7 The credit of the State shall not in
8 any manner or for any purpose be given or
9 loaned to or in aid of any individual,
10 private association or private corporation."
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CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend 4 to
Com Rec SF-4

YEAS	N-V	NAYS
President		●
Tawes		●
Clark, J.		●
James		●
Abramson		●
Adkins	●	
Anderson		●
Armor		●
Bamberger		●
Bard		●
Barrick		●
Baumann	●	
Beachley		●
Beall	●	
Bennett		●
Blair	●	
Boileau	●	
Borom	●	
Bothe		●
Boyce	●	
Boyer		●
Boyles		●
Bradshaw		●
Bryson		●
Burdette	●	
Burgess	●	
Bushong	●	
Buzzell		●
Byrnes		●
Caldwell	●	
Cardin		●
Carson		●
Case		●
Chabot	●	
Child		●
Cicone	●	

YEAS	N-V	NAYS
Clagett		●
Clarke, E. J.		●
Cleveland		●
Dabrowski		●
Darby	●	
Della	●	
Dorsey	●	
Dukes	●	
Dulany		●
Eckenrod	●	
Finch		●
Fornos	●	
Fox	●	
Frederick		●
Freedlander		●
Gallagher		●
Gilchrist		●
Gill	●	
Gleason	●	
Grant		●
Groh		●
Grumbacher		●
Gullett	●	
Hanson		●
Hardwick	●	
Hargrove		●
Harkness		●
Harris		●
Henderson		●
Hickman		●
Hopkins	●	
Hostetter	●	
Hutchinson		●
Jett		●
Johnson	●	
Kahl	●	

YEAS	N-V	NAYS
Key		●
Kiefer		●
Kirkland	●	
Koger		●
Kosakowski		●
Koss		●
Leitzel	●	
Linton	●	
Lord		●
Macdonald		●
Malkus	●	
Marion		●
Mason		●
Maurer		●
Mentzer	●	
Miller, B.		●
Miller, E. G.		●
Mitchell		●
Morgan		●
Moser		●
Mosner	●	
Mudd	●	
Murphy	●	
Murray, D. S.		●
Murray, E. C.		●
Needle		●
Neilson		●
Neumann		●
Smith, A. W.		●
Pascal		●
Penniman		●
Peters	●	
Powers		●
Price	●	
Pullen		●
Raley		●

YEAS	N-V	NAYS
Robey, F. C.		●
Robie, K. L.		●
Rollins		●
Rosenstock		●
Rush	●	
Rybczynski		●
Scanlan	●	
Schloeder	●	
Schneider		●
Sherbow		●
Sickles		●
Siewierski	●	
Singer	●	
Smith, J. H.		●
Smith, M. H.		●
Sollins	●	
Sosnowski	●	
Soul	●	
Stern		●
Storm	●	
Sybert		●
Taylor, H. E.		●
Taylor, L.		●
Ulrich		●
Vecera	●	
Wagandt		●
Webb	●	
Ritter	●	
Weidemeyer		●
Wheatley	●	
White		●
Willis		●
Willoner		●
Winslow		●

YEAS	N-V	NAYS
100-200	100-200	100-200
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1 1	1 1	1 1
2 2	2 2	2 2
3 3	3 3	3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

DEL. PRO.	COM. REC.
1000 100	10 1
2000 200	20 2
3000 300	30 3
4000 400	40 4
	50 5
RESO. 600	60 6
2-R. 700	70 7
3-R. 800	80 8
QUO. 900	90 9
MOT. 000	00 0

DATE:
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SEPT. 7
OCT. 8
NOV. 9
DEC. 0

CONSTITUTIONAL CONVENTION OF MARYLAND

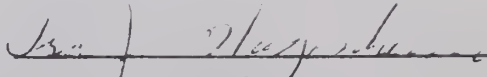
INTRA-CONVENTION MEMORANDUM

DATE: 21 November 1967
TO: H. Vernon Eney, President
FROM: Mr. Ira J. Wagonheim, Chief Clerk
SUBJECT: Delegate Proposals covered by committee recommendation
returned to Clerk's Office.

The Committee on STATE FINANCE AND TAXATION has returned
the following proposals with the report that they are covered by
Committee Recommendation S.F. 5:

6
99
102
187
251
252
266
315
325
329
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360
364

For second reading
See
SF 13 10


Ira J. Wagonheim
Chief Clerk

Constitutional Convention

COMMITTEE RECOMMENDATION NO. SF-5

BY THE COMMITTEE ON STATE FINANCE AND TAXATION,
Joseph Sherbow, Chairman

November 13, 1967.

Presented, read, and referred to the Committee of the Whole.

By order, IRA J. WAGONHEIM, Chief Clerk.

This Recommendation covers Delegate Proposals Nos. 6 (in part),
99, 102, 187, 251, 252, 266, 315, 325, 329, 351,
360, 364

TITLE

1 A RECOMMENDATION that the Constitution
2 include the following provisions with respect
3 to budget and appropriations.

4
5 The Committee on State Finance and Taxation
6 recommends that the Constitution include the
7 following provisions with respect to budget
8 and appropriations:

9 10 BUDGET AND APPROPRIATIONS

11 12 Section 6.03 Appropriations.

13
14 The General Assembly shall not appropriate
15 any money out of the treasury except by a
16 budget bill or a supplementary appropriation
17 bill.

18 19 Section 6.04 The Budget.

20
21 On the third Wednesday in January in each
22 year (except in the case of a newly elected
23 governor, and then not later than twelve days
24 after the convening of the General Assembly into

1 regular session), unless such time be extended by
2 the General Assembly, the Governor shall
3 submit to the General Assembly a budget for the
4 ensuing fiscal year. The budget shall show the
5 estimated surplus or deficit of revenues at the
6 end of the preceding year and shall contain, for
7 the fiscal year covered thereby, an estimate of
8 revenues, a complete plan of proposed expenditures
9 by program including all appropriations required
10 by this Constitution or by law, and any additional
11 information prescribed by law, all in such form
12 and detail as the governor shall determine. The
13 total of the proposed expenditures shall be
14 limited to funds available therefor as shown in the
15 budget.

16
17
18 Section 6.05 Mandatory Appropriations.

19
20 The estimates of appropriations for the
21 legislative branch, certified by the presiding
22 officer of each house, and for the judicial
23 branch, certified by the chief judge of the
24 Superior Court, shall be transmitted to the
25 governor, in such form and at such time as he
26 shall direct. To the extent that appropria-
27 tions for the legislative and judicial branches
28 and for state support of public school systems
29 are required by law, the estimates therefor
30 shall be included in the budget without revision.

31
32
33 Section 6.06 Presentation of Budget Bill.

34
35 The governor shall deliver to the presiding
36 officer of each house the budget and a bill for
37 all the proposed appropriations of the budget,
38 classified and in such form and detail as he
39 shall determine or as may be prescribed by law.
40 The presiding officer of each house shall
41 promptly cause the bill, called the budget
42 bill, to be introduced. The governor may, before
43 final action thereon by the General Assembly, amend
44 or supplement the budget bill to correct an over-
45 sight, to appropriate funds contingent on passage
46 of pending legislation or to provide for an
47 emergency. Such amendment or supplement shall be
48 delivered to the presiding officers of both houses,
49 and it shall thereafter become a part of the budget
50 bill as an addition, substitute or modification

1 thereof or any item thereof. Each amendment shall
2 be accompanied by a statement by the governor ex-
3 plaining the reasons therefor.

4

5

6 Section 6.07 Amendment of Budget Bill.

7

8

9 The General Assembly may amend the budget bill
10 by increasing any item relating to the legislative
11 or judicial branches, or by reducing or striking
12 out any item except the appropriation of sufficient
13 funds to provide for the timely payment of the in-
14 terest upon and installments of principal of all
15 State indebtedness and the appropriations required
16 by law for State support of public school systems;
17 but it may not otherwise amend the budget bill or
18 change the estimate of revenues. The compensation
19 of a public officer may not be decreased during
20 his term of office.

21

22

23 Section 6.08 Enactment of Budget Bill.

24

25 The budget bill shall become law when
26 passed by both houses of the General Assembly and
27 shall not be subject to veto by the governor. If
28 the budget bill shall not have been finally acted
29 upon by the General Assembly ten days before the
30 expiration of its regular session, the governor
31 shall issue a proclamation extending the session
32 until the passage of the budget bill and ten days
33 thereafter. After such proclamation, no other
34 legislation, except provision for the cost of
35 the extended session, can be finally passed by
36 the General Assembly until the budget bill has
37 been enacted.

38

39

40 Section 6.09 Testimony on Budget Bill.

41

42 Either house of the General Assembly may
43 require any person in any branch or agency of
44 the State government, other than the governor
45 to appear and testify with respect to the budget
46 bill or a supplementary appropriation bill. The
47 governor or a person designated by him shall have
48 the right to appear and testify with respect to
49 the budget bill or a supplementary appropriation
50 bill.

1 Section 6.10 Supplementary Appropriations.

2
3 Any other appropriation shall be embodied in
4 a separate bill called a supplementary appropria-
5 tion bill, the purpose or purposes of which shall
6 be clearly defined therein. In a regular session
7 a supplementary appropriation bill may be passed
8 by either house, but shall not be finally enacted
9 until the budget bill has become law, but such a bill
10 may be considered and enacted at any time in a special
11 session. Except as provided in Section 6.11, a sup-
12 plementary appropriation bill shall provide the rev-
13 enue necessary to pay the appropriation by a tax,
14 direct or indirect, to be levied and collected as
15 prescribed therein.

16
17
18 Section 6.11 Capital Expenditures.

19
20 Appropriations for capital projects to be
21 financed by the creation of indebtedness of the
22 State shall be embodied in a supplementary appro-
23 priation bill and such bill shall contain an
24 irrevocable pledge of the full faith and credit
25 and unlimited taxing power of the State. Any
26 such appropriation that is in addition to or
27 exceeds the capital appropriations submitted to
28 the General Assembly by the Governor shall pro-
29 vide the revenue necessary to pay the debt
30 service required thereby by a tax, direct or
31 indirect, to be levied and collected as prescribed
32 therein.

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Maryland Room
University of Maryland Library
College Park, Md.

Constitutional Convention

COMMITTEE MEMORANDUM NO. SF-5

BY THE COMMITTEE ON STATE FINANCE AND TAXATION,
Joseph Sherbow, Chairman

November 13 , 1967.

In support of Committee Recommendation No. SF-5

BUDGET AND APPROPRIATIONS

Section 6.03 Appropriations

The General Assembly shall not appropriate any money out of the treasury except by a budget bill or a supplementary appropriation bill.

Comment:

The Committee Recommendation substitutes the imperative "shall" for the word "may" in line 14 on page 1 of the Recommendation.

Section 6.04 The Budget

On the third Wednesday in January in each year (except in the case of a newly elected governor, and then not later than twelve days after the convening of the General Assembly into regular session), unless such time be extended by the General Assembly, the Governor shall submit to the General Assembly a budget for the ensuing fiscal year. The budget shall show the estimated surplus or deficit of revenues at the end of the preceding year and shall contain, for the fiscal year covered thereby, an estimate of revenues, a complete plan of proposed expenditures by program

1 including all appropriations required by this
2 Constitution or by law, and any additional in-
3 formation prescribed by law, all in such form
4 and detail as the governor shall determine. The
5 total of the proposed expenditures shall be
6 limited to funds available therefor as shown in
7 the budget.

8
9 Comment:

10
11 The Committee recognizes that the first
12 sentence of this Section must be conformed to
13 whatever action is taken by the Convention with
14 respect to the timing and duration of sessions
15 of the General Assembly. The balance of the
16 Section follows the Commission Draft.

17
18
19 Section 6.05 Mandatory Appropriations

20
21 The estimates of appropriations for the
22 legislative branch, certified by the presiding
23 officer of each house, and for the judicial
24 branch, certified by the chief judge of the
25 Superior Court, shall be transmitted to the
26 governor, in such form and at such time as he
27 shall direct. To the extent that appropria-
28 tions for the legislative and judicial branches
29 and for state support of public school systems
30 are required by law, the estimates therefor
31 shall be included in the budget without revision.

32
33 Comment:

34
35 The "mandatory appropriations" for which
36 this section provides are of three types: (1)
37 for the legislative branch, (2) for the judicial
38 branch, and (3) for state support of public school
39 systems. It is essential to bear in mind, however,
40 that they are made mandatory only to the extent
41 that the appropriations in question are required
42 by law.

43
44 The first two types give recognition to
45 the separation of powers between the legislative,
46 executive, and judicial branches. The amounts
47 involved are relatively small; they are fixed by
48 law; and, subject to limitations as to salaries
49 or compensation, they may be increased or de-
50 creased by the General Assembly.

1 The third type of appropriation raises a dif-
2 ferent problem. To the extent that it is required
3 by law, its inclusion in the budget without change
4 is made mandatory on both the Governor and the
5 General Assembly.
6

7 Appropriations for the support of the public
8 schools were accorded special treatment in the
9 budget amendment to the Constitution proposed by
10 Chapter 159 of the Laws of 1916 and ratified by
11 the voters on November 7, 1916. The Commission on
12 Economy and Efficiency, headed by Dr. Frank J.
13 Goodnow, President of Johns Hopkins University
14 which originated the State's executive budget plan,
15 recommended this treatment. The Draft Constitution
16 simplifies the language but does not change the
17 substance.
18

19 The effect of the mandatory provision relat-
20 ing to school appropriations has been widely mis-
21 understood. It is often assumed that it makes
22 school appropriations "untouchable". This is not
23 the case. All such appropriations are required
24 to be in accordance with law, and the General As-
25 sembly can and does change the basis on which they
26 are determined. The only substantial effect of
27 making them mandatory is to create a year's leeway
28 for the preparation of State and local school
29 budgets before legislative changes can become ef-
30 fective.
31

32 Not all school appropriations are mandatory.
33 The expenses of the State Board of Education, for
34 example, are not included. What is mandated is
35 the support of the public school system as such,
36 and this is based on a statutory formula which is
37 established by law.
38

39 At the present time, Article 77, Section 220
40 of the Annotated code of Maryland, relating to the
41 State's share of current public school expenses,
42 provides that "The State shall share in an adjusted
43 expenditure for current expenses of \$370 multiplied
44 by the number of pupils enrolled on September 30
45 of each year."
46

47 This is subject to change by the General As-
48 sembly, but so long as the formula remains in ef-
49 fect, the governor must include an amount in the
50 annual budget based upon it. Inasmuch as the

1 budget is made up six months or more before the
2 September 30 date specified in the law, the number
3 of pupils must be estimated. This is done in the
4 first instance by the local school boards, and the
5 very nature of the problem produces variations in
6 amounts. Furthermore, the school boards necessarily
7 seek to avoid the risk of running out of money
8 during the school year. Any overestimates have
9 only a temporary effect however, inasmuch as the
10 excess appropriation reverts to the State and is
11 available to meet the appropriation of the following
12 year.

13
14 Under this procedure, the substantial effect
15 of the mandatory provision is to give the school
16 system a year's leeway in which to operate before
17 a change in the formula can be made by the General
18 Assembly. The plan has worked well for half a
19 century, and the Committee believes that it is in
20 the public interest. Arrangements for teachers
21 and facilities must be completed long in advance
22 of the school year, and, without the certainty afforded
23 by the year's leeway, the school system
24 would find it difficult to complete its plans.
25 The county school boards must know what they can
26 expect from the State in order to prepare their
27 school budgets. The earlier that these amounts
28 can be determined, the more efficiently the school
29 systems can operate.

30
31 In considering Section 6.05, the Committee had
32 the benefit of hearing a number of witnesses, including
33 James Rennie, former Director of the Budget, and a State
34 employee for thirty-seven years. He testified that the
35 mandatory appropriations had not caused any great
36 difficulty in the past, and he recommended that they
37 be continued in the Constitution. In practice, he said,
38 the Budget Director and the Governor can require the
39 Board of Education to justify its estimates, even though
40 they do not have the legal right to change them.

41
42
43 In voting to approve this Section, the
44 Committee divided nine to four, with two abstentions.
45

46
47 With respect to appropriations for the judicial
48 branch, Section 6.05 requires a certification of
49 the estimate by the Judge of the Superior Court.
50 This designation should be conformed to the

1 provisions adopted with respect to the judicial
2 branch.

3
4 Section 6.06 Presentation of Budget Bill.

5
6 The governor shall deliver to the presiding
7 officer of each house the budget and a bill for
8 all the proposed appropriations of the budget,
9 classified and in such form and detail as he
10 shall determine or as may be prescribed by law.
11 The presiding officer of each house shall
12 promptly cause the bill, called the budget
13 bill, to be introduced. The governor may, before
14 final action thereon by the General Assembly, amend
15 or supplement the budget bill to correct an over-
16 sight, to appropriate funds contingent on passage
17 of pending legislation or to provide for an
18 emergency. Such amendment or supplement shall be
19 delivered to the presiding officers of both houses,
20 and it shall thereafter become a part of the budget
21 bill as an addition, substitute or modification
22 thereof or any item thereof. Each amendment shall
23 be accompanied by a statement by the governor ex-
24 plaining the reasons therefor.

25
26 Comment:

27
28 The Committee unanimously recommended the
29 adoption of this section as proposed in the Draft
30 Constitution.

31
32
33 Section 6.07 Amendment of Budget Bill.

34
35 The General Assembly may amend the budget bill
36 by increasing any item relating to the legislative
37 or judicial branches, or by reducing or striking
38 out any item except the appropriation of sufficient
39 funds to provide for the timely payment of the in-
40 terest upon and installments of principal of all
41 state indebtedness and the appropriations required
42 by law for state support of public school systems;
43 but it may not otherwise amend the budget bill or
44 change the estimate of revenues. The compensation
45 of a public officer may not be decreased during
46 his term of office.

47
48 Comment:

49
50 The majority of the Committee felt that any

1 substantial enlargement of the power of the
2 General Assembly to make increases in the bud-
3 get would defeat the primary purpose of the
4 executive budget system. The vote was twelve
5 to three.

6
7 The last sentence of this section provides
8 that "the compensation of a public officer may
9 not be decreased during his term of office."
10 The Report of the Constitutional Convention
11 Commission, page 323, indicates that this pro-
12 vision, although not new, is expected to fill
13 the place of Article III, Section 35 of the
14 existing Constitution, which is to be omitted.
15 This latter provision, however, prohibits in-
16 creases, as well as decreases.

17
18 On this point, the Committee has had the
19 benefit of the views of Dr. Carl Everstine,
20 Director of the Department of Legislative
21 Reference, as well as of Delegate Marvin
22 Anderson, sponsor of Delegate Proposal No.102.

23
24 Any prohibition against increases in the
25 salary or compensation of public officers can
26 work substantial hardship in the case of long
27 term offices. For example, it seems manifestly
28 unfair to expect a judge to accept a lengthy
29 term of office with no possibility of increased
30 compensation to meet rises in the cost of living.
31 Where several officers serve on a board or com-
32 mission, the prohibition against increases can
33 result in some members with longer service re-
34 ceiving less than newer members for the same
35 work and responsibility.

36
37 It is the recommendation of the Committee
38 that the blanket prohibition of Article III,
39 Section 35 of the present Constitution be
40 omitted, as recommended by the Constitutional
41 Convention Commission. To the extent that a
42 limitation against increases in compensation
43 during a term of office is deemed desirable
44 with respect to any particular office or offices,
45 it should be included in the provisions relating
46 thereto.

47
48 Section 6.08 Enactment of Budget Bill.

49
50 The budget bill shall become law when passed

1 by both houses of the General Assembly and
2 shall not be subject to veto by the governor.
3 If the budget bill shall not have been finally
4 acted upon by the General Assembly ten days before
5 the expiration of its regular session, the governor
6 shall issue a proclamation extending the session
7 until the passage of the budget bill and ten days
8 thereafter. After such proclamation, no other
9 legislation, except provision for the cost of
10 the extended session, can be finally passed by
11 the General Assembly until the budget bill has
12 been enacted.

13
14 Comment:

15
16 After hearing extensive testimony on this
17 Section, as originally proposed, the Committee
18 voted thirteen to two to substitute the provision
19 in Delegate Proposal No. 360 with slight amend-
20 ments. It is the opinion of the Committee that
21 the substitute provision, as set out in the recom-
22 mendation will furnish an adequate stimulus to
23 action on the budget and is preferable to the
24 original provision making the budget effective
25 after fifty days in the absence of legislative
26 action. We are advised that this is also the
27 opinion of the Committee on the Legislative
28 Branch.

29
30 The provision, as recommended, contemplates
31 a legislative session of ninety days. If the
32 Convention makes provision for a substantially
33 different period, or for a session of indefinite
34 duration, it will be necessary to conform or re-
35 consider Section 6.08.

36
37 Section 6.09 Testimony on Budget Bill.

38
39 Either house of the General Assembly may re-
40 quire any person in any branch or agency of the
41 state government, other than the governor, to
42 appear and testify with respect to the budget
43 bill or a supplementary appropriation bill. The
44 governor or a person designated by him shall have
45 the right to appear and testify with respect to
46 the budget bill or a supplementary appropriation
47 bill.

48
49
50

1 Comment:

2

3 The Committee recommended without change
4 the provision in the Commission Draft, the vote
5 being eleven to three with one abstention.

6

7

8 Section 6.10 Supplementary Appropriations.

9

10 Any other appropriation shall be embodied
11 in a separate bill called a supplementary appro-
12 priation bill, the purpose or purposes of which
13 shall be clearly defined therein. In a regular
14 session a supplementary appropriation bill may
15 be passed by either house, but shall not be
16 finally enacted until the budget bill has become
17 law, but such a bill may be considered and en-
18 acted at any time in a special session. Except
19 as provided in Section 6.11, a supplementary ap-
20 propriation bill shall provide the revenue neces-
21 sary to pay the appropriation by a tax, direct or
22 indirect, to be levied and collected as prescribed
23 therein.

24

25 Comment:

26

27 The Committee recommended the substitution
28 of the above for the provision in the Commission
29 Draft. The language is taken from Delegate Pro-
30 posal No. 99 and effects two important changes:

31

32 (1) The substitute provision eliminates the
33 requirement that a supplementary appropriation
34 bill be "limited to some single work, object or
35 purpose", and merely requires that the purpose
36 or purposes of the bill be clearly defined there-
37 in. The Committee feels that this change is
38 desirable, especially in light of the September 13,
39 1967 opinion of the Court of Appeals in Stanley I.
40 Panitz v Comptroller of the Treasury.

41

42

43 (2) The substitute provision permits the
44 passage of a supplementary appropriation bill
45 by either house at any time during the legisla-
46 tive session, although prohibiting final enactment
47 (during a regular session) until the budget bill
48 has become law. This change conforms to what is
49 popularly known as the "Mandel Amendment", em-
50 bodied in Chapter 416 of the Laws of 1966 and

1 ratified by the voters Nov. 8, 1966.

2
3 In making this substitution, the Committee
4 deleted the last five lines of Delegate Proposal
5 No. 99, this language having been rendered un-
6 necessary by the change recommended in Section
7 6.08.

8
9 The vote on Section 6.10 was twelve to one
10 with two abstentions.

11
12 In the present Constitution the correspond-
13 ing provision on Supplementary Appropriations
14 (Art III, Sec. 52 (8)) contains an express
15 reference to the Governor's right of item veto.
16 The omission of such a reference from Section
17 6.10 has misled several of the witnesses appear-
18 ing before our Committee into an assumption that
19 the Governor would no longer have this right
20 with respect to supplementary appropriation bills.
21 Accordingly, it seems desirable to include in
22 Section 6.10 some reference to the Governor's
23 veto power as provided in Sections 4.14 and 4.15.
24 It is assumed that this can best be done by the
25 Committee on Style.

26
27
28 Section 6.11 Capital Expenditures

29
30 Appropriations for capital projects to be
31 financed by the creation of indebtedness of the
32 State shall be embodied in a supplementary appro-
33 priation bill and such bill shall contain an
34 irrevocable pledge of the full faith and credit
35 and unlimited taxing power of the State. Any
36 such appropriation that is in addition to or
37 exceeds the capital appropriations submitted to
38 the General Assembly by the Governor shall pro-
39 vide the revenue necessary to pay the debt service
40 required thereby by a tax, direct or indirect, to
41 be levied and collected as prescribed therein.

42
43 Comment:

44
45 This is a new Section, prompted by the pro-
46 posed withdrawal by the State from the use of
47 the property tax in order to make this revenue
48 source more fully available to the localities.
49 Under the present Constitution no debt may be
50 created by the General Assembly unless supported

1 by an annual tax sufficient to cover the payment
2 of principal and interest, and in practice this
3 has been done by the dedication of a State
4 property tax. The proposed amendment of Section
5 6.01, so as to substitute for this a general
6 pledge of the unlimited taxing power of the
7 State, makes necessary some other budgetary pro-
8 vision to cover debt service in order to avoid
9 unbalancing the budget.

10

11 The new section is intended to conform to ex-
12 isting budgetary practices with respect to capital
13 expenditures. These are ordinarily included in a
14 supplementary appropriations bill, sometimes re-
15 ferred to as the capital budget bill, submitted to
16 the General Assembly by the Governor. Capital
17 items may be added, eliminated, or changed by the
18 General Assembly, subject to line item veto by the
19 Governor.

20

21 To the extent that capital appropriations
22 are financed by borrowing, the dedication of an
23 annual tax under Art. III, Sec. 34 of the present
24 Constitution has had the effect of automatically
25 providing for the funding of the indebtedness.
26 The purpose of Section 6.11 is to provide a sub-
27 stitute for this, the principal difference being
28 that no specific tax will be dedicated to bond
29 service (unless the General Assembly so desires),
30 but the necessary revenue will be provided from
31 whatever tax sources are available at the time,
32 and from year to year thereafter.

33

34 Section 6.11 continues the requirement that
35 expenditures for debt service be offset on a cur-
36 rent basis by revenue. Capital appropriations
37 submitted to the General Assembly by the Governor
38 must necessarily be supported by revenues suffic-
39 ient to cover debt service; and the General Assem-
40 bly is required to provide tax revenue necessary
41 to pay the debt service on any capital appropria-
42 tions that are in addition to or exceed those sub-
43 mitted to the General Assembly by the Governor.

44

45

46

47

48

49 In order to afford an opportunity to members
50 of the Committee to file minority reports, should

1 they desire to do so, without the necessity of
2 voting against the entire Committee recommenda-
3 tion, the Committee has agreed that its recom-
4 mendation shall be deemed for this purpose to
5 be a series of separate reports on the individ-
6 ual sections covered thereby.

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Constitutional Convention

AMENDMENT NO. 1

~~XXXXXXXXXXXXXXXXXXXX~~

To Committee Recommendation No. SF-5

BY DELEGATE MARION

1 On page 2 Section 6.05 Mandatory Appro-
2 priations lines 23 and 24, strike out the
3 words "the chief judge of the Superior Court"
4 and insert in lieu thereof the following:
5
6 "that judge who shall be designated by the
7 chief judge of the Court of Appeals to
8 certify the judicial branch budget".
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CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend 1 to
Com Rec SF 5

YEAS	N-V	NAYS
● President		
● Tawes		
● Clark, J.		
● James		
● Abramson		
● Adkins		
● Anderson		
● Armor		
● Bamberger		
● Bard		
● Barrick		
● Baumann		
● Beachley		
● Beall		
● Bennett		
● Blair		
● Boileau		
● Borom		
● Bothe		
● Boyce		
● Boyer		
● Boyles		
● Bradshaw		
● Bryson		
● Burdette		
● Burgess		
● Bushong		
● Buzzell		
● Byrnes		
● Caldwell		
● Cardin		
● Carson		
● Case		
● Chabot		
● Child		
● Cicone		

YEAS	N-V	NAYS
● Claggett		
● Clarke, E. J.		
● Cleveland		
● Dabrowski		
● Darby		
● Della		
● Dorsey		
● Dukes		
● Dulany		
● Eckenrode		
● Finch		
● Fornos		
● Fox		
● Frederick		
● Freedlander		
● Gallagher		
● Gilchrist		
● Gill		
● Gleason		
● Grant		
● Groh		
● Grumbacher		
● Gullett		
● Hanson		
● Hardwick		
● Hargrove		
● Harkness		
● Harris		
● Henderson		
● Hickman		
● Hopkins		
● Hostetter		
● Hutchinson		
● Jett		
● Johnson		
● Kahl		

YEAS	N-V	NAYS
● Key		
● Kiefer		
● Kirkland		
● Koger		
● Kosakowski		
● Koss		
● Leitzel		
● Linton		
● Lord		
● Macdonald		
● Malkus		
● Marion		
● Mason		
● Maurer		
● Mentzer		
● Miller, B.		
● Miller, E. C.		
● Mitchell		
● Morgan		
● Moser		
● Mosner		
● Mudd		
● Murphy		
● Murray, D. S.		
● Murray, E. C.		
● Needle		
● Neilson		
● Neumann		
● Smith, A. W.		
● Pascal		
● Penniman		
● Peters		
● Powers		
● Price		
● Pullen		
● Raley		

YEAS	N-V	NAYS
● Robey, F. C.		
● Robie, K. L.		
● Rollins		
● Rosenstock		
● Rush		
● Rybczynski		
● Scanlan		
● Schloeder		
● Schneider		
● Sherbow		
● Sickles		
● Siewierski		
● Singer		
● Smith, J. H.		
● Smith, M. H.		
● Sollins		
● Sosnowski		
● Soul		
● Stern		
● Storm		
● Sybert		
● Taylor, H. E.		
● Taylor, L.		
● Ulrich		
● Vecera		
● Wagandt		
● Webb		
● Ritter		
● Weidemeyer		
● Wheatley		
● White		
● Willis		
● Willoner		
● Winslow		

YEAS	N-V	NAYS
100-200	100-200	100-200
0 0	0 0	0 0
1 1	1 1	1 1
2 2	2 2	2 2
3 3	3 3	3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9	9 9	9 9

DEL. PRO.	COM. REC.
1000 100	10 1
2000 200	20 2
3000 300	30 3
4000 400	40 4
500	50 5
RESO. 600	60 6
2-R. 700	70 7
3-R. 800	80 8
QUO. 900	90 9
MOT. 000	00 0

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OCT. 8
NOV. 9
DEC. 0

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FOK XMEH & MEANTXNXXXXXXXXX

To Committee Recommendation No. SF 5

BY DELEGATE S HANSON, GALLAGHER, BRUMBACHER, SOLLINS,
FOX, KOSS, BAMBERGER, MAURER, MARION, B. MILLER,
BURDETTE, SCANLAN, SICKLES, AND MORGAN.

1 On Page 3 lines 6 through 37 inclusive of
2 Committee Recommendation No. SF 5, strike out
3 all of Section 6.07 Amendment of Budget Bill
4 and all of Section 6.08 Enactment of Budget
5 Bill and insert in lieu thereof the following:

7 Section 6.07. Amendment of Budget Bill.

9 The General Assembly may amend the budget
10 bill by increasing or decreasing the appropri-
11 ation for any item included in the budget, by
12 transferring funds among items included in the
13 budget or by including items not in the budget
14 bill as introduced. The total appropriation
15 included in the budget bill as enacted by the
16 General Assembly shall not exceed the estimate
17 of revenues submitted by the governor. The
18 General Assembly shall not reduce or strike
19 out any appropriation of sufficient funds for
20 the timely payment of the interest upon and
21 installments of principal of all state indebt-
22 edness and appropriations required by law for
23 state support of public school systems. The
24 compensation of a public officer shall not be
25 decreased during his term of office.

27 Section 6.08. Enactment of Budget Bill.

29 The General Assembly shall remain in ses-
30 sion until the budget has been enacted. If
31 the budget bill shall not have been passed
32 by both houses of the General Assembly by the

1 eightieth day of its regular session, the
2 General Assembly shall finally enact no
3 **other** legislation until the budget bill has
4 been enacted. Within ten days following
5 passage of the budget bill by both houses
6 of the General Assembly, the governor may
7 reduce or strike out any appropriation
8 contained in the budget bill, and each
9 reduction or veto of an appropriation item
10 shall be effective unless overridden by a
11 vote of three-fifths of all the members of
12 each house of the General Assembly within
13 ten days after the action by the governor.
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CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend 2 to
Com. Rec. SF 5
as amended.

YEAS	N-V	NAYS
President		
Tawes		
Clark, J.		
James		
Abramso		
Adkins		
Anderson		
Armor		
Bamberger		
Bard		
Barrick		
Baumann		
Beachley		
Beall		
Bennett		
Blair		
Boileau		
Borom		
Bothe		
Boyce		
Boyer		
Boyles		
Bradshaw		
Bryson		
Burdette		
Burgess		
Bushong		
Buzzell		
Byrnes		
Caldwell		
Cardin		
Carson		
Case		
Chabot		
Child		
Cicone		

YEAS	N-V	NAYS
Clagett		
Clarke, E. J.		
Cleveland		
Dabrowski		
Darby		
Della		
Dorsey		
Dukes		
Dulany		
Eckenrode		
Finch		
Fornos		
Fox		
Frederick		
Freedlander		
Gallagher		
Gilchrist		
Gill		
Gleason		
Grant		
Groh		
Grumbacher		
Gullett		
Hanson		
Hardwick		
Hargrove		
Harkness		
Harris		
Henderson		
Hickman		
Hopkins		
Hostetter		
Hutchinson		
Jett		
Johnson		
Kahl		

YEAS	N-V	NAYS
Key		
Kiefer		
Kirkland		
Koger		
Kosakowski		
Koss		
Leitzel		
Linton		
Lord		
Macdonald		
Malkus		
Marion		
Mason		
Maurer		
Mentzer		
Miller, B.		
Miller, E. J.		
Mitchell		
Morgan		
Moser		
Mosner		
Mudd		
Murphy		
Murray, D. S.		
Murray, E. C.		
Needle		
Neilson		
Neumann		
Smith, A. W.		
Pascal		
Penniman		
Peters		
Powers		
Price		
Pullen		
Raley		

YEAS	N-V	NAYS
Robey, F. C.		
Robie, K. L.		
Rollins		
Rosenstock		
Rush		
Rybczynski		
Scanlan		
Schloeder		
Schneider		
Sherbow		
Sickles		
Siewierski		
Singer		
Smith, J. H.		
Smith, M. H.		
Sollins		
Sosnowski		
Soul		
Stern		
Storm		
Sybert		
Taylor, H. E.		
Taylor, L.		
Ulrich		
Vecera		
Wagandt		
Webb		
Ritter		
Weidemeyer		
Wheatley		
White		
Willis		
Willoner		
Winslow		

YEAS	100-200
0	0
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N-V	100-200
0	0
1	1
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5	5
6	6
7	7
8	8
9	9

NAYS	100-200
0	0
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9

DEL. PRO.	100
1000	100
2000	200
3000	300
4000	400
	500
RESO.	600
2-R.	700
3-R.	800
QUO.	900
MOT.	000

COM. REC.	10	1
20	2	
30	3	
40	4	
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60	6	
70	7	
80	8	
90	9	
00	0	

DATE:	1
JAN.	2
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SEPT.	7
OCT.	8
NOV.	9
DEC.	0

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Constitutional Convention

AMENDMENT NO. 2A

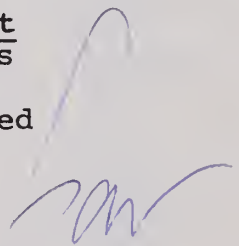
To Amendment No. 2

To Committee Recommendation No. SF-5

BY DELEGATE ADKINS

1 On page 1 Section 6.07 Amendment of Budget
2 Bill in lines 16 and 17 strike out the words
3 "estimate of revenues" and insert in lieu
4 thereof the following words: "total budgeted
5 expenditures".
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CONSTITUTIONAL CONVENTION OF MARYLAND
1967
ROLL CALL

Amend 2a to
Amend 2 to Com.
Rec. SF-5

YEAS	N-V	NAYS
● President		
___ Tawes	●	
___ Clark, J.	●	
___ James	●	
___ Abramson	●	
● Adkins		
___ Anderson		
___ Armor		
___ Bamberger		
___ Bard	●	
___ Barrick		
___ Baumann	●	
___ Beachley		
___ Beall	●	
___ Bennett		
___ Blair		
___ Boileau		
___ Borom		
___ Bothe		
___ Boyce		
___ Boyer	●	
___ Boyles	●	
___ Bradshaw		
___ Bryson		
___ Burdette		
___ Burgess	●	
___ Bushong	●	
● Buzzell		
● Byrnes		
● Caldwell		
● Cardin		
● Carson		
● Case		
● Chabot		
● Child		
___ Cicone	●	

YEAS	N-V	NAYS
● Claquet		
● Clarke, E. J.		
___ Cleveland		
● Dabrowski		
___ Darby		
___ Della		
___ Dorsey		
___ Dukes		
___ Dulany		●
___ Eckenrode		●
___ Finch		
___ Fornos		
___ Fox		
___ Frederick		●
___ Freedlander		●
___ Gallagher		
___ Gilchrist		
___ Gill	●	
___ Gleason	●	
___ Grant		
___ Groh		
___ Grumbacher		
___ Gullett		
___ Hanson		
___ Hardwick	●	
___ Hargrove		
___ Harkness		
___ Harris	●	
___ Henderson		
___ Hickman		
___ Hopkins		
___ Hostetter		
___ Hutchinson	●	
___ Jett		
___ Johnson		
___ Kahl	●	

YEAS	N-V	NAYS
___ Key		
● Kiefer		
___ Kirkland		
___ Koger		●
___ Kosakowski		●
___ Koss		
___ Leitzel		●
___ Linton		●
___ Lord		
___ Macdonald		
___ Malkus	●	
___ Marion		
___ Mason		●
___ Maurer		
___ Mentzer		●
___ Miller, B.		
___ Miller, E. B.		
___ Mitchell		
___ Morgan		
___ Moser		
___ Mosner		
___ Mudd		
___ Murphy	●	
___ Murray, D. S.		
___ Murray, E. C.		
___ Needle		
___ Neilson		
___ Neumann		
___ Smith, A. W.		
___ Pascal	●	
___ Penniman		●
___ Peters		●
___ Powers		
___ Price	●	
___ Pullen		
___ Raley		●

YEAS	N-V	NAYS
___ Robey, F. C.		
___ Robie, K. L.		
___ Rollins		
___ Rosenstock		●
___ Rush		●
___ Rybczynski		●
___ Scanlan		
___ Schloeder		
___ Schneider		●
___ Sherbow		●
___ Sickles		
___ Siewierski		
___ Singer	●	
___ Smith, J. H.		
___ Smith, M. H.		
___ Sollins		
___ Sosnowski	●	
___ Soul		●
___ Stern		●
___ Storm		●
___ Sybert		
___ Taylor, H. E.		
___ Taylor, L.		
___ Ulrich		●
___ Vecera		
___ Wagandt	●	
___ Webb		
___ Ritter		
___ Weidemeyer		
___ Wheatley	●	
___ White		
___ Willis		●
___ Willoner		
___ Winslow		

YEAS	N-V	NAYS
100-200	100-200	100-200
___ 0	___ 0	___ 0
___ 1	___ 1	___ 1
___ 2	___ 2	___ 2
___ 3	___ 3	___ 3
___ 4	___ 4	___ 4
___ 5	___ 5	___ 5
___ 6	___ 6	___ 6
___ 7	___ 7	___ 7
___ 8	___ 8	___ 8
___ 9	___ 9	___ 9

DEL. PRO.	COM. REC.	DATE:
___ 1000	___ 100	___ JAN. 2
___ 2000	___ 200	___ 3
___ 3000	___ 300	___ 1
___ 4000	___ 400	___ 2
___ 500	___ 50	___ 3
___ 600	___ 60	___ 4
___ 700	___ 70	___ 5
___ 800	___ 80	___ 6
___ 900	___ 90	___ 7
___ 000	___ 00	___ 8
___ 000	___ 00	___ 9
___ 000	___ 00	___ 0

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Constitutional Convention

AMENDMENT NO. 5

~~XXXXXXXXXXXXXXXXXXXX~~

To Committee Recommendation No. SF-5

BY DELEGATE BAMBERGER

1 On page 3 Section 6.07 Amendment of Budget
2 Bill in line 19 after the word "officer" add
3 the words: "provided for in the State budget".
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